IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

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CWP No.8880 of 2021
Date of decision : 23.04.2021

M/s Shree Behar Ji Trading Co.

... Petitioner

Versus

Union of India and others

.. Respondents

CORAM : HON'BLE MR.JUSTICE JASWANT SINGH
HON'BLE MR.JUSTICE SANT PARKASH

Present : Mr.Ferry Sofat, Advocate
for the petitioner.

[**The aforesaid presence is being recorded through video-conferencing since the proceedings are being conducted in virtual court**]

Jaswant Singh, J. (Oral)

Petitioner-proprietorship concern is engaged in the business of trading. Upon investigation, two show-cause notices dated 12.03.2021 (Annexure P-39) and 15.03.2021 (Annexure P-40) have been issued by Sale Tax Office, Ward No.3, Mandi Gobindgarh-respondent No.5 under Section 74 of CGST Act, 2017 for evasion of tax for the financial years 2017-18 and 2018-19 respectively.

The challenge has been laid to the aforesaid show-cause notices (Annexure P-39 and P-40) as also an order dated 08.02.2021 (Annexure P-38) whereby the benefits of Input Tax Credit (ITC) amounting to Rs.5,93,081/- was blocked in view of the provisions of Rule 86A of the CGST Act, 2017. Further prayer is for issuance of a writ in the nature of mandamus for declaring Section 16(2) (c), second proviso to Section 16(2) (d) and Section 43A(6) of the Central Goods and Services Tax Act, 2017 as ultra vires on the ground that the same are arbitrary and unreasonable and are in violation of articles 14 and 19(1)(g) of the Constitution of India.

At the very outset, learned counsel for the petitioner submits that as regards the blocking of the ITC vide Annexure P-38, the necessary grievance has been redressed by the department. Realizing that the challenge to the show-cause notices (Annexures P-39 and P-40) would not be maintainable under Article 226 of the Constitution of India, at this stage, he does not press this petition.

As regards the challenge to the vires of aforesaid provisions, learned counsel for the petitioner prays for withdrawal of the writ petition to enable his client to file a fresh one with better particulars.

Dismissed as withdrawn with liberty aforesaid.

[**JASWANT SINGH**]
JUDGE

23.04.2021
sd

[**SANT PARKASH**]
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No