**IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH**

**Civil Writ Petition No.22569 of 2020**
**Date of Decision:** *January 14, 2021*

M/s Shiv Enterprises , VPO Satroad, Raipur Road, Hisar (Haryana)
..... PETITIONER(S)

*VERSUS*

Commissioner, CGST, O/o CGST Commissioner-ate, Pacific City Center Mall, Near Jaat Bhawan, Rohtak & others
..... RESPONDENT(S)

. . .

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

. . .

**PRESENT**: - Mr. Sandeep Goyal, Advocate, for the petitioner.

Mr. Saurabh Goel, Advocate, for respondent Nos.1 to 3.

. . .

**Sant Parkash, J**

The aforesaid presence is being recorded through video conferencing since the proceedings are being conducted in virtual court.

While issuing notice of motion on the last date of hearing i.e. 23.12.2020, this Court had passed the following order:-

> "[The aforesaid presence is being recorded through video conferencing since the proceedings are being conducted in virtual court.]
>
> Petitioner, a partnership firm is seeking the quashing of provisional attachment order dated 04.12.2020 **(Annexure P-5)** passed under Section 83 of the Central GST Act, 2017, whereby the bank accounts of the firm have been attached being contrary to the provisions of section itself and having passed in a mechanical manner. That apart, the petitioner has

already availed the remedy of filing Objections under Rule 159(5) of the Central GST Rules, 2017 which are stated to be pending adjudication, leading to stopping of all business activities of the petitioner.

Notice of motion to respondents No.1 to 4 only, at this stage, for 14.01.2021.

On the asking of the Bench, Mr.Sourabh Goel, Advocate accepts notice on behalf of respondents No.1 to 3 whereas Mr. Akshay Jindal, Advocate accepts notice on behalf of respondent No.4-State Bank of India.

The Commissioner, CGST, Rohtak-respondent No.1 is directed to decide the objections within one week of the next date of hearing fixed on the objections already filed by the petitioner.

Till the next date of hearing or passing of the order by respondent No.1, whichever is earlier, the Account No.90000034386431821 of the petitioner-firm with respondent No.4 as depicted in Annexure P-5 shall be permitted to be operated by the petitioner subject to maintaining the existing balance as on today."

In compliance to the aforesaid reproduced order, learned counsel for the respondents has placed on record order dated 05.01.2021 passed by respondent No.1, whereby Loan Account of petitioner bearing No.34410423938 maintained in State Bank of India has been released and objections raised by the petitioner stand rejected. The relevant part of the aforesaid order dated 05.01.2021 is reproduced hereunder:-

"12. I, however, agree with the party that credit account/loan accounts are not liable to be attached as held by the Hon'ble High Court of Punjab & Haryana in the case of BINDAL SMELTING PVT. LTD. Versus ADDL. DIR. GEN., DIRECTORATE GEN. OF GST INTELLIGENCE (supra).

As per the Para No.12 C.W.P. filed by the Party in Punjab and Haryana High Court, I find that Account Number 34410423938 maintained in State Bank of India is a Loan Account. I, therefore, order to release the State Bank of India account Number 34410423938 being a Term Loan Account.

ORDER

> 13. In view of my discussion and findings as above, objections filed by the party are rejected to above extent. Relief also granted in terms of above findings.
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> 14. This order is issued without prejudice to any other action that may be initiated against M/s. Shiv Enterprises if at some subsequent stage of enquiry it is found that ITC availed is inadmissible on some other grounds also."

It is pertinent to mention here that against order dated 05.01.2021, the petitioner has already availed his remedy by filing CWP No.851 of 2021.

In view of the above, the petition is disposed of as having been rendered infructuous.

**(Jaswant Singh)**
**Judge**

**(Sant Parkash)**
**Judge**

**January 14, 2021**
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Whether Speaking/ Reasoned: Yes/ No
Whether Reportable: Yes/ No