

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-2546-2022

Date of Decision : July 05, 2023

M/S BALAJI ENTERPRISES

.....Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

.....Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present : Mr. Sandeep Goyal, Advocate,
Ms. Aakriti, Advocate,
Mr. Nitish Bansal, Advocate and
Mr. Ishan Loomba, Advocate
for the petitioner.

Ms. Mamta Singla Talwar, DAG, Haryana.

Mr. Sourabh Goel, Sr. Standing Counsel CBIC with
Mr. Tej Bahadur, Advocate and
Ms. Shivani Sahni, Advocate
for the respondents No.2 and 3.

RITU BAHRI. J.(Oral)

In the present petition, the petitioner is seeking mandamus directing the respondents to refund the amount of Rs.31,90,716/- which was recovered illegally by making the petitioner to reverse Input Tax Credit while filing GSTR-3B return for the month of September, 2019 (Annexure P-2) on account of tax recovered in respect of purchases made from M/s Ganesh Trading Co., Panipat during the search conducted on 25.10.2019.

On notice written statement dated 6.9.2022 has been filed by the respondents. In para No.4 of the same, it has been clarified that M/s

Ganesh Trading Co., Panipat is non-existing bogus taxpayer firm and, therefore, in order to avoid the legal complications, the petitioner firm has voluntarily reversed the ITC amounting to Rs.15,95,358/- under each head i.e. HGST & CGST by submitting return for the month of September, 2019 on 25.10.2019. Since the petitioner firm has voluntarily requested for reversal of ITC, therefore, in this backdrop there is no necessity to issue notice under Sections 73/74 of the HGST Act, 2017 for the reversal of ITC.

The fact that the petitioner had voluntarily filed the return is not disputed by the learned counsel for the petitioner. It is further submitted in para No.3 of the written statement that FIR No.259 dated 9.3.2019 was registered at Police Station Chandi Bagh, Panipat against M/s Ganesh Trading Co., Panipat. After registration of the FIR, the officials from the Department had visited the business premises of the petitioner firm i.e. M/s Balaji Enterprises to verify the dealings with such bogus firm.

At this stage, the learned counsel for the petitioner seeks to withdraw the present petition in order to avail alternate remedy in accordance with law.

Dismissed as withdrawn with liberty aforesaid.

(RITU BAHRI)
JUDGE

(KULDEEP TIWARI)
JUDGE

July 05, 2023
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Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No