HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-15288-2023
Date of decision: 20.07.2023

M/s. Bhawani Castings Pvt. Ltd. ....Petitioner

V/s.

State of Punjab and others ....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE MANISHA BATRA

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

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Ritu Bahri, J. (Oral).

1. The petitioner is seeking quashing/reading down the provisions of Section 16(2)(c) of the Central GST Act/Punjab GST Act, 2017.

2. Learned counsel for the petitioner refers to Section 75(4) of the Punjab GST Act, 2017/Central GST Act, 2017 which provides that an opportunity of hearing has to be granted where request is received in writing from a person chargeable with tax or penalty before passing any adverse order in proceedings when show cause notice under Section 74 is given.

3. In the present case, after receiving show cause notices dated 03.02.2023 (Annexure P-5 and P-6), the petitioner gave reply on 04.03.2023 (Annexure P-7) and he clicked on the option for personal hearing (at page No. 112 of the paperbook) which was not given to the petitioner. In similar grounds, ***CWP-26101-2021*** titled as ***M/s. Naresh Aggarwal Agencies Pvt.***

Ltd. vs. The State of Punjab and another, decided on 21.12.2021 and ***CWP-13852-2021*** titled as ***M/s. Raghunandan Iron & Steel Company vs. State of Punjab and another***, decided on 28.07.2021 were disposed of by granting opportunity of hearing.

4. Notice of motion.

5. On the asking of the Court, Ms. Anu Pal, Senior Deputy Advocate General, Punjab accepts notice and she is not able to dispute the provisions of Section 75(4) of the Central GST Act, 2017.

6. Hence, this petition is being disposed of by giving direction to respondents to give an opportunity of hearing to the petitioner on the show cause notices dated 03.02.2023 (Annexures P-5 and P-6) and then pass fresh order in accordance with law. Orders dated 05.06.2023 (Annexures P-9 and P-10) are set aside. However, the issue of challenging vires is kept open.

(RITU BAHRI)
JUDGE

(MANISHA BATRA)
JUDGE

20.07.2023
Divyanshi

Whether speaking/reasoned:	**Yes/No**
Whether reportable:	**Yes/No**