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

(206) **CWP-19125-2023**
Decided on : 16.12.2023

M/s Aar Dee Enterprises ……Petitioner(s)

Versus

State of Punjab & others ……Respondent(s)

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MR.JUSTICE DEEPAK MANCHANDA

Present: Mr.Himanshu Jakhar, Advocate, for
Mr.J.S.Bedi, Advocate for the petitioner (s).

Mr.Alankar Narula, AAG, Punjab.

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G.S. Sandhawalia, J. (Oral)

1. Prayer in the present writ petition, filed under Article 226/227 of the Constitution of India is for quashing the notice in Form GST MOV-02 dated 16.08.2023 (Annexure P-2) whereby respondent-authorities intercepted the goods & conveyance bearing No.PB13Z8987 carrying iron scrap goods outside Durga Multimetals, Village Chatarpura, Mandi Gobind Garh. Resultantly, notice dated 22.08.2023 (Annexure P-3) for confiscation of the said goods and show cause as to why the same be not confiscated under the provisions of Section 130 of the Punjab Goods & Services Tax Act and Central Goods & Services Tax Act, 2017 and tax, penalty and other charges payable be not levied.

2. Prayer has also been made to release the vehicle and the goods which was acceded to while issuing notice of motion by the Co-ordinate Bench on 31.08.2023 and the petitioner was to deposit 25% in cash and the remaining in the shape of personal bond with surety since it has been contended that the petitioner was ready to pay the penalty and fine as per the Form GST MOV-02 dated 16.08.2023 (Annexure P-2) to that extent.

3. The exigency of the situation regarding the vehicle and the goods is over and the petitioner who is a consigner will necessarily have to reply to the show cause notice whether the circumstances spelled out in the show cause notice had any substance. The show cause notice shows the reference to invoice no.201 dated 16.08.2023 in favour of Durga Multimetals Pvt. Ltd. for

a sum of Rs.12,75,885/- had a grand total of Rs.15,05,545/- dated 16.08.2023, the date when the vehicle was detained. The invoice which has been placed on record as Annexure P-1 would go on to show that the goods had been consigned by Rajan Trading Corporation at Rajkot to the petitioner and carries a separate detail.

4. In such circumstances, the matter will have to be gone into by the authorities. The genuineness of the facts and transit would require further verification and it has specifically been mentioned that it was entrusted from M/s Rajan Trading Corporation at Rajkot and Section 16(2)(c) of the Act needs verification from the books of account. The Apex Court in **The State of Punjab Vs. M/s Shiv Enterprises & others, 2023 (96) GST 120** has held that it is not for this Court to entertain the writ petition against the show cause notices and has set aside the order of this Court while not interfering in the order whereby the goods had been released.

5. Resultantly, keeping in view the settled position and the fact that the matter has to be gone into by the competent authority, we dispose of the present writ petition with liberty to the petitioner to file his response to the said notice. It is open to the authorities to take action in accordance with law.

(G.S. SANDHAWALIA)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

16.12.2023
sailesh

Whether speaking/reasoned :	Yes	
Whether Reportable :		No