IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-19193-2023
Date of decision:- 01.09.2023

Rauhitaang Steels ....Petitioner

vs.

State of Punjab and anr. ...Respondents

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

Present: Mr. Mukul Singla, Advocate
for the petitioner

Mr. Saurabh Kapoor, Addl.A.G. Punjab

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Ritu Bahri, J.

1. The present petition has been filed seeking quashing of order dated 18.05.2021 (P-4) and show cause notice dated 09.04.2021 (P-3).

2. Petitioner is a proprietorship concern engaged in the business of trading of iron and steel goods and is duly registered under CGST Act, 2017 and PGST Act, 2017 vide GSTIN 03AGDPK4379F1ZK. Petitioner purchases goods from various dealer/manufacturers and supplies the same in domestic market. Petitioner availed input tax credit of the amount of GST paid to its suppliers. However, he received a call from the respondent-department in the month of March, 2023 about the outstanding tax demand against the petitioner on account of purchases made from certain suppliers. The petitioner then requested the respondent, vide letter dated 28.03.2023 (P-1) to supply the information regarding the pending GST matter to the petitioner. On non-receipt of information, the petitioner sent reminder dated 01.06.2023 (P-2) and he was informed that a tax

demand of Rs.5,92,238/- along with interest and penalty has been confirmed against the petitioner. The respondent supplied physical copy of a show cause notice dated 09.04.2021 (P-3) issued to the petitioner stating that one person namely Ganga Ram was arrested under Section 132 of the Act and petitioner had made purchases from few firms which were directly or indirectly in control of Ganga Ram. The respondent raised the demand of alleged inadmissible ITC on account of purchases made from M/s Roli Trading Co and M/s Gautam and Co, who have allegedly passed on fraudulent ITC to the petitioner without payment of tax.

3. Pursuant to show cause notice dated 09.04.2021 (P-3), the demand was confirmed against the petitioner, vide order dated 18.05.2021 (P-4).

4. Learned counsel for the petitioner has argued that the impugned order has been passed without giving opportunity of hearing to the petitioner. He has further argued that the amount of taxable supply pertaining to the above mentioned two suppliers along with amount of ITC alleged to have been claimed by the petitioner, is not correct as per the books of account of the petitioner.

5. Learned counsel for the petitioner has further referred to ledger account (P-5) of M/s Roli Trading Co, which shows that the total value of purchases made from said supplier is only Rs.15,06,003/- whereas the respondent in the show cause notice and impugned order has shown taxable value of the goods purchased from the said supplier to Rs.25,52,547/- and the tax charged on the said transactions is Rs.4,59,459/-. To the same effect is the ledger account of M/sGautam and Co. (P-6)

6. After hearing learned counsel for the parties, the present writ petition deserves to be dismissed as the petitioner has alternative remedy of filing an appeal

against the impugned order. The only ground taken for not filing appeal is that before the Appellate Authority, the petitioner will have to deposit 10 percent of the disputed amount as per Section 107 (5) of the Act.

7. The grievance of the petitioner before this Court is that as per copy of ledger book (P-5 and P-6), the petitioner is not liable to pre-deposit 10 per cent of the disputed amount. However, the petitioner can take all the pleas before the Appellate Authority and the Appellate Authority can consider the question of pre-deposit of amount, after examining the ledger book (P-5 and P-6).

8. Accordingly, the writ petition is dismissed. However, a liberty is granted to the petitioner to file an appeal before the Appellate Authority to make out a case of not depositing 10 per cent of the disputed amount, as per the ledger book (P-5 and P-6).

(RITU BAHRI)
JUDGE

(MANISHA BATRA)
JUDGE

01.09.2023
G Arora

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