

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

CWP No. 20909-2023

Date of decision:- 05.10.2023

M/s Daman Textiles

.... Petitioner

vs.

Union of India and ors.

...Respondents

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

Present: Mr. Kinshu Mittal, Advocate and
Ms. Sidhi Bansal, Advocate
For the petitioner

Ritu Bahri, J. (Oral)

The present petition has been filed seeking quashing of show cause notice in Form GST DRC-01 bearing No. AW/FGS/294 dated 23.11.2022 (P-8) as well as impugned order dated 25.01.2023 (P-1), vide which the tax liability has been imputed upon the petitioner firm on account of inadmissible ITC claimed from bogus firms.

Issue notice of motion.

On asking of the Court, Ms. Anu Pal, Sr DAG Punjab and Mr. Sourabh Goel, Sr. Panel counsel, accepts notice on behalf of respondent-State and respondent-department respectively.

The precise grievance of the petitioner before this Court is that respondent No. 4 has already issued a show cause notice dated 09.03.2018 (P-4) for the same transaction and for the same period. But now again a fresh show cause notice has been issued to the petitioner in Form GST DRC-01 dated

23.11.2022 (P-8) and without opportunity of personal hearing, the impugned order has been passed on 25.01.2023 confirming the tax liability of Rs.24,60,526/-along with interest amounting to Rs.19,55,560/- and penalty amounting to Rs.12,30,264/- under Section 74 (11) of the CGST/SGST Act, 2017.

Learned counsel submits that the two show cause notices on the same cause of action are liable to be set aside and further no opportunity of hearing was provided to the petitioner before passing the impugned order.

Learned State counsel on instructions from Sh. Shinee Singh, Assistant Ludhiana-3 has informed the Court that it is right that no opportunity of hearing was given to the petitioner.

In view of the above factual position, the present petition is allowed and impugned order dated 25.01.2023 (P-1) is set aside. A liberty is given to the respondent-department to pass fresh order, after affording opportunity of hearing to the petitioner and after serving show cause notice dated 23.11.2022 (P-8).

(RITU BAHRI)
JUDGE

(MANISHA BATRA)
JUDGE

05.10.2023
G Arora

<i>Whether speaking/reasoned</i>	: Yes/No
<i>Whether reportable</i>	: Yes/No