

Neutral Citation No.2023:PHHC:133826-DB

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

227

CWP-25578-2021 (O&M)
Date of decision: 12.10.2023

Shri Nitish Kumar

...Petitioner

Versus

Commissioner, Central Goods and
Service Tax CGST Commissionerate & ors.

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MR. JUSTICE ALOK JAIN

Present : None for the petitioner.

Mr. Sourabh Goyal, Sr. Standing Counsel
for the respondents.

RITU BAHRI, J. (Oral)

Even on the second call, no one has put in appearance on behalf
of the petitioner.

The petitioner has made the following prayers in the writ
petition:-

“(i). Issuance of writ in the nature of mandamus
directing the respondent No.1 to deploy some
responsible officer in place of respondents no.2/3 in
the interest of fair, transparent and expedite
investigation for the reasons cited in the writ
petition;

AND

(ii). issuance of writ in the nature of mandamus
directing the respondent No.1 to conduct the
proceedings of tendering of petitioner's statements
under CCTV recording as per Hon'ble Supreme

Neutral Citation No.2023:PHHC:133826-DB

Court orders in Special Leave Petition (Criminal) No.3543 of 2020, Paramvir Singh Saini Vs. Baljit Singh & others in the interest of fair, transparent and expedite investigation;

AND

(iii) issuance of writ in the nature of certiorari, thereby quashing the illegal and unlawful impugned order dated 22.11.2021 (Annexure P-7) passed by respondents No.2/3 without even hearing the petitioner against the principle of natural justice;

AND

(iv) issuance of writ in the nature of certiorari, thereby quashing the illegal and unlawful impugned Email dated 14.12.2021 (Annexure P-10) issued by respondent No.4 in violation of Section 2(4) of CGST Act, 2017 read with Circular No.31/05/2018-GST dated 9th February 2018 issued by CBIC as per which respondent respondent No.4 i.e. Superintendent of Central Tax is actually the adjudicating authority under CGST Act, 2017.

AND/OR

(v) Issuance of any other appropriate writ, order or direction, which this Hon'ble Court may deem fit and proper in the circumstances of the case."

Learned counsel for the respondents has filed reply mentioning that as far as the first prayer is concerned, officers respondents No.2 and 3 have since been transferred. With respect to the second prayer, order dated 22.12.2021 has been complied with and the statement of the petitioner has been recorded and videographed and all the future videograph recordings have been retained by the department in the safe custody as observed in order dated 01.02.2022. With respect to third prayer, challenge is to the

Neutral Citation No.2023:PHHC:133826-DB

order dated 22.11.2021 passed by Joint Commissioner (First Appellate Authority under RTI Act, 2005) and the said order can be challenged by the petitioner under the RTI Act, 2005 by taking alternative remedy of appeal. With respect to the 4th prayer, respondent No.4 is itself an adjudicating authority under CGST Act, 2017. With respect to the last prayer, a show cause notice has already been issued on 02.04.2023 and the petitioner has remedy to challenge that show cause notice in accordance with law.

No further direction is required to be issued in the present petition.

Dismissed.

However, liberty is granted to the petitioner to revive the present petition, if anything survives, within two months.

(RITU BAHRI)
JUDGE

12.10.2023
monika

(ALOK JAIN)
JUDGE

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