IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

112 ***2023:PHHC:147521-DB***

CWP-25691-2023
Date of Decision: 21.11.2023

Sonu and another .....Petitioner(s)

Versus

Financial Commissioner (Taxation), Punjab and another ...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MS. JUSTICE LAPITA BANERJI

Present: Mr. Bachanpreet Singh, Advocate,
and Mr. Manish Kumar Gupta, Advocate,
for the petitioner.

Mr. Arjun Sheoran, DAG, Punjab.

G.S.SANDHAWALIA, J. (Oral)

1. The petitioner, in a petition filed under Articles 226 and 227 of the Constitution of India, seeks directions to respondent No.2 for release of confiscated goods and conveyance as demanded tax and penalty has already been paid on 21.09.2023.

2. The following order was passed on 16.11.2023:-

> *"Petitioners seek release of the confiscated goods and conveyance as it is alleged that demanded tax and penalty had been paid on 21.09.2023. The vehicle in question is stated to be PB 10/EH-9157 which is registered in the name of petitioner No.2-Deepak Kumar. The demand has allegedly been met by petitioner No.1 who is none else but wife of petitioner No.2 as per the averments made as she is stated to be the proprietor of M/s Mitansh Enterprises (Annexure P-1).*
>
> *Mr.Arjun Sheoran, DAG, Punjab submits that on account of the fact that the vehicle belongs to petitioner No.2 and the goods allegedly belong to petitioner No.1,*

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the issue has arisen. He accordingly prays for time to file short affidavit as to how the matter can be resolved.

List on 21.11.2023."

3. In pursuance of the said order, short affidavit of Bhag Singh, Assistant Commissioner State Tax, State Intelligence & Preventive Unit, Bathinda has been filed today. It has been pleaded in the affidavit that petitioner No.2 had come forward after the vehicle had been detained and notice was issued on the ground that the transaction was being carried out in contravention of the provisions of Punjab GST Act, 2017 and with intention to evade tax. The temporary GST registration No.032300001231TMP was generated on the basis of identity proof submitted by him and petitioner No.1-Sonu never came forward personally. Since the petitioner No.2 projected himself as a owner of the goods, the temporary registration number had also been created in his name. However, the penalty and fine has been deposited in the GST registration of petitioner No.1. It has been further pleaded that the penalty has been wrongly deposited by petitioner No.1 and cannot be adjusted in the present case and petitioner No.1 can utilize the said amount for future tax liabilities and can seek refund from the jurisdictional officer by filing an online application on GST portal. It has been pleaded that conveyance will be immediately released once the penalty and fine is rightly deposited in temporary registration 032300001231TMP created in the name of petitioner No.2.

4. Counsel for the petitioners submits that the petitioners have financial handicap as such and are not in a position to deposit the amount twice over at one point of time. Accordingly, he prays that directions be issued firstly to refund the amount so that thereafter it can be deposited by the correct person for release of the goods and the vehicle.

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5. Keeping in view the admitted fact as such and the response filed by the State, we dispose of the present writ petition by issuing directions to the Superintendent, Muktsar Ward I, Central GST/Jurisdictional Officer where the penalty and fine had been wrongly deposited by petitioner No.1 to refund the said amount within a period of 10 days from the date of receipt of certified copy of the order. Thereafter, if the said amount is deposited by petitioner No.2, the said goods and the vehicle be released within a period of one week thereafter.

(G.S. SANDHAWALIA)
JUDGE

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(LAPITA BANERJI)
JUDGE

Whether reasoned/speaking Yes
Whether reportable No

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