

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

113

2023:PHHC:145372-DB

CWP-25827-2023

Date of Decision: 16.11.2023

M/s. Star Traders

.....Petitioner(s)

Versus

State of Punjab and others

....Respondent(s)

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

Present: Mr. Sandeep Goyal, Advocate,
and Mr. Mohit Bassi, 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 for release of goods and the vehicle.

2. The case of the petitioner is that goods were being transported by Invoice No.192 dated 30.08.2023 amounting to Rs.4,94,494/- including tax transported in vehicle No.HP-12N-6325. They were also accompanied by E-way Bill No.471365583262 dated 30.08.2023 generated at 9.03 p.m. having validity upto 03.09.2023 11:59 p.m. The said goods and conveyance was being carried under the cover of valid documents as required under Section 68 PGST/CGST read with Rule 138A of the CGST Rules. The vehicle allegedly was intersected on 03.09.2023 on the National Sirhind Highway by respondent No.3.

3. It is not disputed that on 22.09.2023 (Annexure P-2), an order was passed imposing a penalty of Rs.75,431/- IGST and fine of Rs.1,50,862/-

IGST, totalling to Rs.2,26,293/-. The said order has also been set aside in

appeal by the Appellate Authority on 13.10.2023 (Annexure P-5). The petitioner thereafter also filed a representation on 25.10.2023 (Annexure P-6) that the vehicle and the goods have still been detained and seeking their release. It is on that basis the writ jurisdiction has been invoked.

4. Mr. Arjun Sheoran, DAG, Punjab, on account of having advance copies, accepts notice. The only defence of counsel for the State, on instructions from Mr. H.S. Naghi, STO, Sipu Shabhu, is that the State is proposing to file an appeal against the order of the Appellate Authority. We do not see any justifiable reason as to why the vehicle as such alongwith goods, in such circumstances, can be detained without any authority of law and the petitioner can be denied the fruits of the litigation.

5. Resultantly, we allow the writ petition and direct respondent No.3 to release the vehicle and the goods forthwith. Needless to say if any order is passed in favour of the State and the appellate order is reversed, the present order would not stand in the way as we are not deciding on the merits of the order passed by the appellate authority.

(G.S. SANDHAWALIA)
JUDGE

16.11.2023
shivani

(LAPITA BANERJI)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes
No