232

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-5967-2023 (O&M)
Date of Decision:12.12.2024

GREY HOUND ENGINEERS PVT. LTD. THROUGH ITS DIRECTOR, SH. SHEKHAR SARAWAGI

..…...Petitioner

V/s.

STATE OF HARYANA AND OTHERS

…......Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA.
HON'BLE MR. JUSTICE SANJAY VASHISTH.

Present Mr. Rajiv Agnihotri, Advocate for the appellant.

Ms. Mamta Singla Talwar, DAG, Haryana.

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SANJEEV PRAKASH SHARMA, J. (Oral)

1. The petitioner has assailed the blocking of its account and blocking of Input Tax Credit for an amount of ₹32,70,384/-.

2. Learned counsel for the petitioner submits that the petitioner has already filed reply to the notice under Section 74 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "the Act") and the respondents are yet to adjudicate and pass final orders. The petitioner is ready to contest the said aspect and submits that the allegations leveled in the notice under Section 74 of the Act, are false and the petitioner cannot be said to have availed wrongful Input Tax Credit.

3. *Per contra*, learned State counsel submits that upon enquiry, it was found that the petitioner had availed Input Tax Credit showing fake invoices and the concerned firms were found to be non-existent. Therefore, it is only to the amount of Input Tax Credit benefit said to have been obtained by the fake invoices from the concerned fake firms. Learned counsel submits that the respondents are also in the process of passing final order on the notice under Section 74 of the Act.

4. Learned counsel for the petitioner has reiterated that the petitioner should be allowed to operate its account as its business should not be stopped merely because the matter is pending with the respondents relating to the allegations.

5. We have carefully considered the submissions of learned counsel for both the parties and find that the respondents have blocked an amount of ₹32,70,384/- based on the information received that the petitioner having utilized fake input tax credit passed from certain dealers. Therefore, the said amount has been blocked. The following firms were found non-existent on physical verification:-

Name of the Tax Payers	**GSTIN**	**Remarks**
Guru Kirpa Enterprises	06GMJPM3163D1Z3	Fake ITC passed on to M/s Ankit Steels, Gobindgarh.
R.K. Engineering	06CFZPS3382D1ZV	-DO-
GR Auto Component	06IJIPS8944A1ZT	-DO-
Radha Madhav Trading Co.	06KCTPK2419E1ZD	-DO-

6. The Registration of the aforesaid firms have been cancelled and the amount has been blocked, which in our opinion cannot be said to be wrongful. The provisions of Section 86-A of the Act have been rightly exercised after receiving information of there being fake income tax credit claims claimed by the petitioner. It is the *prima facie* view which is required to be taken up by the respondents before taking action under Section 86-A of the Act and at that stage, in our opinion, there is no occasion for issuing any show cause notice or for affording of any opportunity of being heard as the said aspect is to be only dealt at the stage show cause notice has been issued under Section 74 of the Act. It is to protect the revenue that the provisions of Section 86-A have been provided.

7. However, since the entire provisions of the Act are for the purpose of bringing a harmonious conduit between the businessmen and taxing authorities, it is all the more necessary that if any proceedings are to be initiated or are taken up against any of the businessmen, the same should be decided expeditiously. Here we find that the order was passed of blocking the input tax credit on 20.02.2023 and after one year, again the blocking order has been issued, but at the same time, so far as the proceedings under Section 74 of the Act are concerned, they are yet to culminate the final order.

8. In this case, we also notice that by way of an interim order dated 30.05.2023, this Court had prevented the respondents from passing the final order.

9. In view of what we have observed hereinabove, we now direct the respondents to pass the final order expeditiously, preferably within one month from today, and so far as the petitioner is concerned, it should be allowed to operate its account as by now, more than one and a half year have elapsed since the account of the petitioner was blocked. The petitioner shall, however, give a surety to the tune of ₹32,70,384/- to the authorities before the unblocking would be conducted by the respondents.

10. The Writ Petition stands ***disposed of*** in the aforesaid terms.

11. Interim order granted by this Court on 30.05.2023 stands vacated.

12. All pending application stands disposed accordingly.

[SANJEEV PRAKASH SHARMA]
JUDGE

[SANJAY VASHISTH]
JUDGE

December 12, 2024
Ess Kay

Whether speaking / reasoned	:	*Yes / No*
Whether Reportable	:	*Yes / No*