IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

117 **CWP-11681-2024**
Date of Decision: May 23, 2024

The Assistant Commissioner State Tax
Mobile Wing, Chd-II, Patiala **......Petitioner(s)**

Vs.

M/s A.B.V.B Steel Company Mandi Gobindgarh
and another **......Respondent(s)**

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Saurabh Goel, Sr. Panel Counsel
for the petitioner.

SANJEEV PRAKASH SHARMA.J. (ORAL)

Learned counsel for the petitioner submits that the issue raised in the present petition has already been challenged before this Court in CWP No.17400 of 2023, decided on 29.02.2024 titled as ***Satguru Steels Vs. State of Punjab and another'***

2. We followed the judgment passed by Hon'ble the Supreme Court in case titled as State of Punjab Vs. M/s Shiv Enterprises and others wherein it was held as under :-

> *"6. In view of the above and for the reasons stated above and without expressing anything on merits in favour of either parties, more particularly, against respondent therein (original writ petitioner), on the aforesaid ground alone, we set aside the impugned judgment and order passed by the High Court to the extent of quashing and setting aside the notice dated 14.09.2021, issued under Section 130 of the CGST Act and remand the matter to the appropriate authority, who issued the notice. It will be for the respondent-herein original writ petitioner to file a reply to*

the said show cause notice within a period of four weeks from today and thereafter the appropriate authority to pass an appropriate order in accordance with law and on its own merits.

7. All the contentions/defences which may be available to the respondent-original writ petitioner are kept open to be considered by the appropriate authority in accordance with law and on its own merits.

8. The present appeal is partly allowed to the aforesaid extent. In the facts and circumstances of the case, there shall be no order as to costs."

3. The respondent, on the other hand, had also preferred a writ petition bearing No.CWP-17400 of 2023 before this Court, wherein he prayed for refund of the amount in terms of the impugned order dated 16.06.2022 passed by the Deputy Commissioner State Tax (Appeals), Patiala Division.

4. Learned counsel for the petitioner submits that the amount as directed ought to be refunded to him subject to what is to be done in the appeal, if any, which may be preferred by the revenue against the order dated 16.06.2022. However, as noticed above, we find that GST Tribunal is yet to be formed and therefore, the revenue is before us in CWP No 4202 of 2024 (supra).

5. Keeping in view the above observations of the Hon'ble Apex Court and finding that the order passed by the Deputy Commissioner State Tax (Appeals), Patiala Division relies upon the observations under law laid down by this court in M/s Shiv Enterprises Vs State of Punjab and others", which has been set aside by the Hon'ble Apex Court and the matter was remanded back, we too take similar view and direct the Deputy Commissioner State Tax (Appeals), Patiala Division to independently examine the contentions raised by the writ petitioner-Satguru Steels, before it. It would be open for the writ petitioners (hereinabove) to raise all its contentions with regard to the challenge of invocation under Section 130 in their case. It is expected from the Deputy Commissioner State Tax (Appeals), Patiala Division to pass a detailed speaking order after

examining all the aspects and hearing the concerned stake holders within a period of two months, from today.

6. Parties shall themselves appear before the Deputy Commissioner State Tax (Appeals), Patiala Division on 11.06.2024.

7. The Writ Petition stands disposed of.

8. All pending applications, if any, stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

May 23, 2024
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Whether speaking/reasoned: Yes / No
Whether reportable: Yes / No