IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

134

CWP-18005-2024
Decided on : 31.07.2024

Shashank Garg

. . . Petitioner(s)

Versus

Additional Commissioner (Anti-Evasion),
Central Goods and Service Tax Commissionerate,
Rohtak.

. . . Respondent(s)

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

PRESENT: Mr. Alok Mittal, Advocate
for the petitioner(s).

Mr. Sourabh Goel, Senior Standing Counsel with
Ms. Geetika Sharma, Advocate and
Ms. Anju Bansal, Advocate
for the respondent – revenue.

****

SANJEEV PRAKASH SHARMA, J. (Oral)

1. By way of present writ petition, now petitioner is before this Court on third round of litigation with respect to the same cause of action.

2. Firstly, he preferred one writ petition i.e. CWP-9948-2024, before this Court against the show cause notice issued with respect to the same aspect, under Section 122 of CGST Act, 2017, which is pending consideration. Thereafter, petitioner has assailed by way of CWP-11953-2024, the show cause notice issued under Section 74(1) of the CGST Act, 2017, which was dismissed by this Court vide order 21st May, 2024.

The said order was assailed before the Supreme Court by way of Special Leave to Appeal (C) No(s). 15899/2024, and the Supreme Court vide order dated 26.07.2024, while dismissing the same, passed the following order:-

> “ *Learned senior counsel sought permission to withdraw this Special Leave Petition.*
>
> *His submission is placed on record.*
>
> *The Special Leave Petition is dismissed as withdrawn.*
>
> *Since the High Court has reserved liberty to the petitioner to file replies to the Show Cause Notices, it is needless to observe that the petitioner is at liberty to take all available contentions in the replies to be filed to the Show Cause Notices.”*

3. The present writ petition has been filed again, although not to seek quashing of the show cause notice, but praying for the show cause notice to be issued electronically keeping in view the provisions contained under Rule 142(1)(a) of the CGST/HGST Rules, 2017 and further submits that he be allowed to file the reply electronically alone.

4. On the other hand, learned Senior Standing counsel for the revenue, appearing on advance notice, submits that the revenue is not prevented from issuing the show cause notice under Section 74 of the CGST Act, by e-mail, and merely, because electronically show cause notice has not been issued, the same cannot be treated as invalid in any terms and the petitioner is not prevented from filing reply to the show cause notice through e-mail.

5. Learned Senior Standing Counsel further submits that the petitioner is only trying to delay the proceedings in one pretext or the other seeks to get proceedings delayed of the show cause notice issued under Section 74(1) of the CGST Act, 2017. If the prayer of the petitioner is

allowed, then the revenue will have to issue fresh notice through electronically mode and the time limitation would also set afresh.

6. We do not propose to give such means to the petitioner. The provisions of law cannot be allowed to be twisted for the convenience of persons, who have been found to be *prima facie* utilizing the fraudulent ITCs.

7. We also noticed that if the present argument was to be taken, the same could have been examined by the Apex Court and even the Supreme Court has directed the petitioner to file his reply, which he has not chosen to do, and preferred, the present writ petition.

8. In view of above, we find the filing of present writ petition is a gross abuse to the process of law. Accordingly, we dismiss the writ petition by imposing costs of Rs.50,000/- upon the petitioner, to be deposited with the CGST Authorities.

Pending application(s), if any, also stands disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

(SANJAY VASHISTH)
JUDGE

July 31, 2024
J.Ram

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