2025:PHHC:085175-DB

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

CWP-11916-2025
Date of Decision: July 10, 2025

M/s Jai Ramji Pipes .....Petitioner

Versus

State of Punjab and others .... Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Sandeep Goyal, Advocate and
Ms. Urvi Khanna, Advocate for the petitioner.

Mr. Naman Jain, Senior Standing Counsel
for respondents No. 2 to 4.

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LISA GILL, J.

1. Prayer in this writ petition is for setting aside order dated 31.01.2025 (Annexure P13) passed by Joint Commissioner, Central Goods and Services Tax Commissionerate, Ludhiana.

2. Learned counsel for petitioner, at the very outset, while conceding that remedy of appeal under Section 107(1) of Central Goods and Services Tax Act, 2017 (for short – '2017 Act') and Rule 108 of CGST Rules, 2017 is available submits that the same is not an efficacious remedy available to the petitioner, therefore, present writ petition should be entertained. It is vehemently argued by learned counsel for petitioner that authorities have placed strong reliance upon report dated 11.01.2020, Annexure P5, rendered by a so-called expert, same is also mentioned in

show cause notice dated 10.02.2023. It is pleaded that upon intelligence gathered by officers of Central Goods and Service Tax Commissionerate, Ludhiana it was indicated that petitioner – Firm for the period from July 2017 to November 2019 had discharged its major tax liability through ITC and had paid very negligible amount in cash. Thus, petitioner was stated to have indulged in illegal activities to avoid tax liability. Search was conducted at the premises of petitioner – firm on 10.01.2020 under Section 67 (2) of 2017 Act. Panchnama dated 10.01.2020 is attached as Annexure P1. Various records were resumed/seized. Statement of authorized signatory of petitioner was recorded on 10.01.2020 under Section 70 of 2017 Act. Physical verification of stocks was not conducted on 10.01.2020 due to non-availability of labour at business premises of petitioner. Search was conducted on 11.01.2020. Physical verification was carried out. During physical stock verification of goods/stocks on 11.01.2020 storage of 163.778 MT of ERW pipes valued at Rs.63,05,445/- was detected and was admitted by Firm and applicable GST amount of Rs.11,34,980/- (CGST–Rs.5,67,490/-+SGST – Rs.5,67,490/-) alongwith penalty of Rs.1,70,248/- (CGST – Rs.85,124/- + SGST – Rs.85,124/-) was deposited by petitioner - Firm by DRC-03.

3. Learned counsel further submitted that Jaspal Singh, Chartered Engineer upon directions of Assistant Commissioner, CGST Division – Mandi Gobindgarh purportedly visited the premises of petitioner for verification of machinery on 11.01.2020 alongwith CGST officials and submitted his report dated 11.01.2020, details of which are mentioned in the show cause notice. It is stated in show cause notice that summons dated 28.01.2020 were issued to some of the suppliers of petitioner – Firm, which

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supplied requisite documents. Forensic examination of two devices i.e. laptop and assembled CPU from the business premises of petitioner – Firm was conducted on 22.11.2022 in the presence of authorized signatory of petitioner and two independent witnesses. Proceedings of data retrieval were recorded under two panchnamas of even date i.e. 22.11.2022. Statement of authorized signatory of petitioner was recorded under Section 70 of 2017 Act on 22.12.2022, 28.12.2022 and 30.12.2022 as is also detailed in show cause notice. Show cause notice to the petitioner was issued as to why GST amounting of Rs.3,34,90,886/- [CGST Rs.1,67,45,443 + SGST – Rs.1,67,45,443] should not be demanded and recovered from them under Section 74(1) of the Act. Further, as to why GST amounting to Rs.11,34,980/- (CGST – Rs.5,67,490 + SGST – Rs.5,67,490) already deposited by them vide DRC-03 dated 11.01.2020 be not appropriated against aforesaid demand. Detail of applicable interest and penalty was also mentioned in detail in the said show cause notice. Petitioner had submitted detailed reply to show cause notice dated 10.02.2023.

4. After considering the facts and circumstances of matter, order dated 31.01.2025 was passed by Joint Commissioner, Central Goods and Services Tax Commissionerate, Ludhiana, relevant portion of which reads as under:-

> (i) I confirm demand of Rs. 3,36,40,989/- (1,68,20,495/ each of CGST & SGST) [2,61,27,761/-+ 4,76,536/- + 17,20,992/- +13,74,268/- + 7,50,408/- + 2,21,934/- + 9,48,318/+8,85,792/-+ 11,34,980/-) upon M/s Jai Ramji Pipes, Backside VD Kanda, Amloh Road, mandi Gobindgarh-147301 (having GSTIN 03AAFFJ4844C1ZS) under Section 74(1) of the CGST Act, 2017 and the PGST Act. 2017. I further order to

appropriate amounting Rs. 11,34,980/- already deposited by them vide DRC-03 dated 11.01.2020.

(ii) I confirm demand of interest on amount mentioned in 5(i) above upon M/s Jai Ramji Pipes, Backside VD Kanda, Amloh Road, mandi Gobindgarh-147301 (having GSTIN 03AAFFJ4844C1ZS) under Section 50 of the CGST Act, 2017 and the PGST Act, 2017.

(iii) I impose penalty of Rs. 3,26,76,257/- (1,67,41,061/ each of CGST & SGST) [2,61,27,761/-+ 4,76,536/- + 17,20,992/- +13,74,268/- + 7,50,408/- + 2,21,934/+ 9,48,318/+8,85,792/ + 1,70,248/-] upon M/s Jai Ramji Pipes, Backside VD Kanda, Amloh Road, mandi Gobindgarh-147301(having GSTIN 03AAFFJ4844C1ZS) under Section 74(1) of the CGST Act, 2017 and the PGST Act, 2017. However, I give him and option to pay penalty 50% if they deposit whole amount alongwith interest as described in 5(i) & 5(ii) above within thirty days of communication of this order under Section 74(11) of the CGST Act, 2017 and the PGST Act, 2017. 1 further order to appropriate amounting Rs. 1,70,248/- already deposited by them vide DRC-03 dated 11.01.2020 towards penalty.

(iv) I impose penalty of Rs. 8,05,864/ (Rs. 4,02,932/ each of CGST & PGST) [Rs. 3,15,716/-+ 4,90,148] upon M/s Jai Ramji Pipes, Backside VD Kanda, Amloh Road, mandi Gobindgarh-147301 (having GSTIN 03AAFFJ4844C1ZS) under Section 122(1) of the CGST Act, 2017 & the PGST Act, 2017 for offence of issuing invoices without underlying any goods covered under Section 122(1)(ii) of the CGST Act, 2017 & the PGST Act, 2017.

(v) I impose penalty of Rs. 25,000/- each of CGST & PGST upon M/s Jai Ramji Pipes, Backside VD Kanda, Amloh Road, mandi Gobindgarh-147301(having GSTIN

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03AAFFJ4844C1ZS) under Section 122(3)(e) of the CGST Act, 2017 and the PGST Act, 2017.

(vi) I impose penalty of Rs. 25,000/- each of CGST & PGST upon Sh. Kamaldeep Singh Khokar, ex-partner of/s Jai Ramji Pipes, Backside VD Kanda, Amloh Road, mandi Gobindgarh-147301(having GSTIN 03AAFFJ4844C1ZS) under Section 122(3)(a) of the CGST Act, 2017 and the PGST Act, 2017.

(vii) I impose penalty of Rs. 2,21,934/- upon M/s Diksha Ispat Udyog, Near Old Post Office, Battan Lal Road, Opp. Jall Market, Mandi Gobindgarh-147301 (having GSTIN-03AACPW35328128) under Section 122(1)(i) of the CGST Act, 2017 and the PGST Act, 2017.

(viii) I impose penalty of Rs. 25,000/- each of CGST & PGST upon Sh. Vikas Walia Proprietor of M/s Diksha Ispat Udyog, Near Old Post Office, Battan Lal Road, Opp. Jall Market, Mandi Gobindgarh-147301 under Section 122(3)(d) of the CGST Act, 2017 and the PGST Act, 2017.

(ix) I impose penalty of Rs. 13,61,442/- upon M/s H.L. Chopra Steel Rolling Mills, Khanna Village Alour, Bhadla Road, Khanna-141401 (GSTIN-03AAAFH8250M1ZE) under Section 122(1) (i) of the CGST Act, 2017 and the PGST Act, 2017.

(x) I impose penalty of Rs. 25,000/- each of CGST & PGST upon Sh. Kamaldeep Singh Khokar, partner of M/s H.L. Chopra Steel Rolling Mills, Khanna under Section 122(3)(a) of the CGST Act, 2017 and the PGST Act, 2017.

5. Aggrieved therefrom, petitioner has filed present writ petition.

6. Learned counsel for petitioner vehemently argued that reliance has been placed by authorities upon report dated 11.01.2020 submitted by

so-called expert Jaspal Singh, Chartered Engineer. His very presence at the premises of petitioner – Firm is doubtful. Serious objection in this regard had been raised before Assessing Authority, which while passing order dated 31.01.2025 has duly referred to report dated 11.01.2020 as well as report dated 25.03.2025 but none of the objections, which had been raised by petitioner were even referred to by authorities much less discussed and deliberated upon. It is strenuously urged that this in itself amounts to clearcut violation of principle of natural justice, thus, making out a case for interference by this Court in exercise of jurisdiction under Article 226 of Constitution of India despite availability of an alternate remedy of appeal. He relies upon judgment of Hon'ble the Supreme Court in **Oryx Fisheries Pvt. Ltd. v. Union of India and others (2010) 13 SCC 427** and **Godrej Sara Lee Vs. Excise and Taxation Officers and another (2023) 109 GSTR 402 SC.**

7. Learned counsel for respondents No. 2 to 4 has opposed this writ petition while submitting that no cause of action has arisen to the petitioner to file present writ petition while bypassing the effective, alternate statutory remedy. Dismissal of writ petition is sought.

8. We have heard learned counsel for parties and have carefully perused the file.

9. Factual aspect of search being conducted on the business premises of petitioner – Firm as mentioned above, issuance of show cause notice dated 10.02.2023 and passing of order dated 30.01.2025 are matter of record. It is a settled position that power to issue prerogative writs under Article 226 of Constitution of India is plenary in nature. However, it is equally well settled that interference cannot be carried out in a routine

manner and in fact High Court would normally not entertain the writ petition where efficacious alternate remedy is available until and unless extraordinary circumstances for the same are pointed out. This has so been reiterated by Hon'ble the Supreme Court in the case of **Godrej Sara Lee** (supra) which has been relied upon by petitioner itself.

10. It has been held by Hon'ble the Supreme Court in **Union Bank of India v. Satyawati Tandon and others, 2010(8) SCC 110** as under:-

> "18. While expressing the aforesaid view, we are conscious that the powers conferred upon the High Court under Article 226 of the Constitution to issue to any person or authority, including in appropriate cases, any Government, directions, orders or writs including the five prerogative writs for the enforcement of any of the rights conferred by Part III or for any other purpose are very wide and there is no express limitation on exercise of that power but, at the same time, we cannot be oblivious of the rules of self-imposed restraint evolved by this Court, which every High Court is bound to keep in view while exercising power under Article 226 of the Constitution. It is true that the rule of exhaustion of alternative remedy is a rule of discretion and not one of compulsion, but it is difficult to fathom any reason why the High Court should entertain a petition filed under Article 226 of the Constitution and pass interim order ignoring the fact that the petitioner can avail effective alternative remedy by filing application, appeal, revision, etc. and the particular legislation contains a detailed mechanism for redressal of his grievance. It must be remembered that stay of an action initiated by the State and/or its agencies/instrumentalities for recovery of taxes, cess, fees, etc. seriously impedes execution of projects of public importance and disables them from discharging their constitutional and legal obligations towards the citizens. In cases relating to recovery of the dues of banks, financial institutions and secured creditors, stay granted by the High Court would have serious adverse impact on the financial health of such bodies/institutions, which ultimately prove detrimental to the economy of the nation. Therefore, the High Court should be extremely careful and circumspect in exercising its discretion to grant stay in such matters. Of course, if the petitioner is able to show that its case falls within any of the exceptions carved out in **Baburam Prakash Chandra Maheshwari v. Antarim Zila Parishad AIR 1969 SC 556**, **Whirlpool Corporation v. Registrar of Trade Marks, Mumbai (1998) 8 SCC 1 and Harbanslal Sahnia and another v. Indian Oil Corporation Ltd. and others (2003) 2 SCC 107** and some other judgments, then the High Court may, after considering all the relevant parameters and public interest, pass appropriate interim order.

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25. **In Raj Kumar Shivhare v. Assistant Director, Directorate of Enforcement and another (2010) 4 SCC 772**, the Court was dealing with the issue whether the alternative statutory remedy available under the Foreign Exchange Management Act, 1999 can be bypassed and jurisdiction under Article 226 of the Constitution could be invoked. After examining the scheme of the Act, the Court observed:

> "31. When a statutory forum is created by law for redressal of grievance and that too in a fiscal statute, a writ petition should not be entertained ignoring the statutory dispensation. In this case the High Court is a statutory forum of appeal on a question of law. That should not be abdicated and given a go-by by a litigant for invoking the forum of judicial review of the High Court under writ jurisdiction.

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11. In our considered opinion, arguments as raised before us, do not constitute any extraordinary or exceptional circumstance(s) which call for interference by this Court in exercise of extraordinary jurisdiction under Article 226 of Constitution of India. Grounds so raised are very well within the realm of consideration of Appellate Authority. We refrain from expressing any opinion or even touching upon the merits of the matter lest there be any prejudice to any of the parties.

12. In the given factual matrix, present writ petition is dismissed with liberty to petitioner to avail remedy(ies) as may be available to it in accordance with law.

(LISA GILL)
JUDGE

(SUDEEPTI SHARMA)
July 10, 2025 **JUDGE**
Rts

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No