



M/S Garg Sons Estate Promoters Pvt. Ltd. vs.
Commissioner of State Taxes & Excise and
others

CWP No. 804 of 2024

23.01.2024

Present: Mr. Suneet Goel, Advocate, for the petitioner.

Mr. B.C.Verma and Rajan Kahol, Additional
Advocate Generals, for respondents No. 1 and
2/State.

CWP No. 804 of 2024

Notice. Mr. Rajan Kahol, learned Additional
Advocate General, appears and waives service of notice
on behalf of respondents No. 1 & 2 and seeks time to file
reply.

Issue notice to respondent No.3, returnable within
six weeks, on taking steps within three days.

Pleadings (Reply/Rejoinder) be completed on or
before next date of hearing.

CMP No. 1373 of 2024

Notice in aforesaid terms.

Vide Annexure P-2 dated 03.07.2021 respondent
No.2 had issued summons under Section 70 of the
HPGST/CGST Act., 2017. The period in question pertains
to 01.01.2021 to 30.06.2021. The proceedings in question
pertain to supplies received by the petitioner from one M/S
R.J. Trading.

Reply thereto was filed by the present petitioner
on 21.10.2021, appended alongwith the present petition,
as Annexure P-4. On perusal of the reply so filed,

respondent No.2 had issued a show cause notice under Section 74 (1) of the HPGST/CGST Act., 2017. The same was issued on 12.01.2023.

Subsequent thereto vide impugned Annexure P-10, dated 20.05.2023 tax liability of GST (CGST + HGST) under Section 74 (9) of the HPGST/CGST Act, 2017 alongwith interest and penalty was imposed on the present petitioner.

At this juncture, learned counsel for the petitioner has drawn the attention of this Court to Annexure P-3, i.e. summons issued under Section 70 of the Central Goods and Excise Taxation Act., 2017, issued by the Central Authorities on 12.08.2021. The period in question pertains to 01.07.2017 to 30.06.2021.

The aforesaid summons culminated in order dated 21.12.2023, i.e. Annexure P-12. A perusal of Annexure P-12 reflects that in so far as the petitioner is concerned qua the petitioner's dealing with M/S R.J. Trading Company GST liability worked out was Rs. 2,52,49,764/- for the period in question. The aforesaid amount stand deposited by the petitioner with the Central authorities on account of GST. Therefore, proceedings were closed as is evident from Annexure P-12 dated 21.12.2023.

In the aforesaid facts and attending circumstances, the learned counsel for the petitioner

submits that there is a duplication of proceedings in so far as dealing of the petitioner with M/S R.J. Trading Company is concerned. The petitioner is being vexed twice for the liability in question.

Based on the documents placed on record, a prima facie case exists in favour of the petitioner. Balance of convenience also lies in favour of the petitioner. Grave irreparable loss, which cannot be compensated in terms of money shall be occasioned to the petitioner, if in case the respondents are not restrained from giving effect to Annexure P-10, i.e. order dated 20.05.2023.

In view of the aforesaid, the impugned order dated 20.05.2023, is stayed till further order. The application stands disposed of.

(Bipin C. Negi)
Vacation Judge

January 23, 2024
(Nisha)