

In The High Court Of Punjab & Haryana

JASWANT SINGH & LALIT BATRA

HARI OM ISPAT UDYOG

Versus

State of Punjab and others

CWP-29835-2019 decided on 20/11/2019

Advocated By -

Mr. Jagmohan Bansal, Advocate, for the petitioner. Mr. Satya Pal Jain, Additional Solicitor General assisted by Mr. Sunish Bindlesh, Advocate. Mr. Pankaj Gupta, Additional Advocate General, Punjab.

The petitioner-a partnership firm is engaged in trading of iron and steel products and was registered under GST Scheme. His registration has been cancelled vide order dated 26.3.2019 (Annexure P-3) passed by State Tax Officer, Ludhiana of the rank of Excise and Taxation Officer. The appeal before the Deputy Commissioner State Tax (Appeals) has also been dismissed vide order dated 25.9.2019 (Annexure P-8).

Further remedy available is to go before the Tribunal to be constituted under the GST Scheme, which concededly, as of today, has not been constituted.

The primary argument is that in the absence of the notification under Section 29 of the Act authorising the STO to issue such notices and pass such orders, the impugned order suffers from lack of jurisdiction.

It is next contended that even the effort of the appellate authority/DCST to remove that lacuna by invoking the provisions of Sub Section 11 of Section 107 of PGST Act would not cure the inherent defect in the orders.

Notice of motion for 20.11.2019.

Notice re.: stay as well.

On the asking of this Court, Mr. Pankaj Gupta, Additional Advocate General, Punjab, who is present in Court, accepts notice on behalf of the State. He prays for time to file reply.

In view of the fact that the Tribunal under GST regime have not yet been constituted and more so, in view of the recent pronouncement of Madras High Court in a case reported as WP Nos.24117 and 24118 of 2018; **Revenue Bar Association New No.115 (First Floor), LUZ Church Road, Mylapore, Chennai v. Union of India and others** decided on 20.9.2019, any constitution does not appear to be possible in the near future.

Hence, we request Mr. Satya Pal Jain, Additional Solicitor General to examine the feasibility of vesting the powers under GST regime to the already functional VAT/Sales Tax Tribunals/CESTAT as a temporary measure.

A copy of this order be given to Mr. Sunish Bindlesh, Advocate.

To be listed in the urgent.

**(JASWANT SINGH)
JUDGE**

**(LALIT BATRA)
JUDGE**

October 18, 2019