M/s Shri Balaji Trading Co. Vs. State of H.P. & Ors.

CWP No. 3819/2024

07.05.2024. Present: Mr. J.S. Bedi, Mr. Goverdhan Lal Sharma and Mr. Yashpal, Advocates, for the petitioner.

Mr. Anup Rattan, Advocate General with Mr. Rakesh Dhaulta, Additional Advocates General, Mr. Arsh Rattan, Mr. Sidharth Jalta and Ms. Priyanka Chauhan, Deputy Advocates General, for the respondents.

CWP No. 3819/2024 & CMP No.6354/2024

Notice. Mr. Rakesh Dhaulta, learned Additional Advocate General, accepts notice on behalf of the respondents.

2) Learned counsel for the petitioner contends that the 2nd respondent had issued show cause notice on 30.09.2023 (Annexure P-2) under form GST DRC-01 without serving notice under Rule 99 in form GST ASMT-10. He also placed reliance on the judgment of the Gauhati High Court in ***M/s. Pepsico India Holdings Pvt. Ltd.*** vs. Union of India, WP(C)/6960/2023 dt.13.12.2023, wherein interim order has been issued in similar circumstances.

3) The Additional Advocate General admits that prior to issuance of the form GST DRC-01 dt. 30.09.2023 to the petitioner, the 2nd respondent had not issued a notice in form GST ASMT-10

4) A reading of Rule 99 of the CGST Rules, 2017, makes it clear that the issuance of notice to the petitioner in form GST

ASMT-10, prior to issuance of a show cause notice, is mandatory. Therefore, there shall be stay of all further proceedings pursuant to Annexure P-2 dt. 30.09.2023.

5) List on 2nd July, 2024.

6) Reply be filed in the meantime.

(M.S. Ramachandra Rao)
Chief Justice

(Jyotsna Rewal Dua)
Judge

07th May, 2024(rohit)