



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.3819 of 2024

Date of decision: 07.05.2026

M/s Shri Balaji Trading Co.

...Petitioner.

Versus

State of Himachal Pradesh & Ors.

...Respondents.

Coram

Hon'ble Mr. Justice Vivek Singh Thakur, Judge.

Hon'ble Mr. Justice Ranjan Sharma, Judge.

Whether approved for reporting?¹

For the petitioner : Mr. J.S. Bedi, Advocate with Mr. Goverdhan Lal Sharma, Advocate.

For the respondents : Mr. Anup Rattan, Advocate General with Mr. Sushant Keprate, Additional Advocate General.

Vivek Singh Thakur, Judge

Petitioner has approached this Court seeking following

main substantial relief(s):-

i. For issuance of a writ in the nature of mandamus directing respondents not to proceed further in pursuance to notice, summons issued by Respondent no.3 along with intimation of tax ascertained payable under section 74(5) in form DRC-01 for the period 2017-18, as the show cause notice was issued without issuing ASMT-10. (Annexure P-2) beside this show cause notice was issued without appreciating the factual and legal position as petitioner has already paid the tax to the sellers and in his possession all the documents required for claiming the ITC and the petitioner cannot be forced to do the impossible act that seller has discharged its tax liability or not.

ii. For issuance of a writ in the nature of certiorari/mandamus for quashing /reading down the provisions of Section 16(2)(c) of the Central GST Act/Himachal Pradesh GST Act, 2017 read with Central GST Act, 2017, which restrict the claim of Input Tax Credit in case the tax has not been actually paid to the government either in cash or through utilization of Input Tax Credit being violative of Articles 14

¹ Whether the reporters of the local papers may be allowed to see the Judgment? Yes



and 19(1)(g), 265 and 300A of the Constitution of India and also for the reason that by way of the Provisions of Section 16(2)(c), the petitioner is being asked to do an impossible task which is otherwise not possible in absence of any mechanism provided by the Government.”

2. Learned counsel for the petitioner submits that, at present, the petitioner does not press Relief No.ii, reserving the right to agitate the issue in an appropriate petition, if so desired.

3. It has been further submitted that after issuance of Show Cause Notice DRC-01 dated 30.09.2023 (Annexure P-2), the petitioner had submitted detailed reply along with documents claiming entitlement to the benefit of Input Tax Credit. However, without considering the same, further proceedings in the form of impugned summary show cause notice dated 30.09.2023 (Annexure P-2) was issued, which has been assailed as relief No.i in the present petition.

4. It has been further submitted that the petitioner would be satisfied, if the concerned authorities are directed to consider the claim/objections afresh along with documents filed/to be filed by or on behalf of the petitioner before the competent authority in response to the aforesaid summary show cause notice specifically dealing that whether payments on purchases in question, along with GST, were actually paid or not to the supplier (RTP) and whether the transactions and purchases in question are genuine and supported by valid documents, and whether transactions and purchase in question were made before or after the cancellation of the supplier's registration, as



well as compliance with statutory obligations by the petitioner regarding verification of the identity of the supplier (RTP), in accordance with law, as applicable.

5. It has been further submitted that, if upon consideration of the relevant documents, it is found that all purchases and transactions are genuine and supported by valid documents and were made prior to the cancellation of the supplier's registration, the petitioner be granted the benefit of Input Tax Credit in question.

6. Learned Advocate General submits that, in case, the petitioner files a fresh response to the summary show cause notice before the competent authority along with relevant documents to substantiate the claim of petitioner, the competent authority shall decide the same within a reasonable time.

7. In view of above, the present petition is disposed of by directing the competent authority to consider the objections along with documents, if so filed, within 30 days from today in response to the show cause notice dated 30.09.2023 (Annexure P-2), by keeping in view the aforesaid submissions made by the petitioner and to pass an appropriate speaking and reasoned order thereupon within 06 weeks from the date of filing of such objections/response in accordance with law. In case no objections are filed within 30 days in response to the show cause notice, the competent authority shall proceed further in



accordance with law, treating that the petitioner has nothing to say in response to the said notice.

8. Petition is disposed of in aforesaid terms along with pending applications, if any.

(Vivek Singh Thakur)
Judge

(Ranjan Sharma)
Judge

7th May, 2026
(Pardeep)