

\$~43

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 185/2020

BRIJ GOPAL GUPTA

..... Petitioner

Through: Mr. Vineet Bhatia, Adv.

versus

GOVERNMENT OF NCT OF DELHI & ORS. .... Respondents

Through: Mr. Anuj Aggarwal, ASC , GNCTD  
with Mr. Varun Nishcal, Adv.

**CORAM:**

**HON'BLE MR. JUSTICE VIPIN SANGHI**

**HON'BLE MR. JUSTICE SANJEEV NARULA**

**ORDER**

% **15.01.2020**

1. Issue Notice. Learned counsel for the respondent accepts notice. Counter affidavit be filed within six weeks. Rejoinder thereto, if any, be filed before the next date.

2. Since the appellate tribunal of GST is presently non-functional on account of the stay granted by this Court vide order dated 19.11.2019 in Bharatiya Vitta Salahkar Samiti & Anr. v. UOI and Ors. bearing number W.P.(C) 6900/2018, the petitioner has preferred the present writ petition to assail the order dated 02.12.2019 passed by the Appellate Authority, Delhi, GST as well as the order of demand of tax and penalty, passed by Proper Officer, State GST, Ward 74 with a prayer for release of conveyance bearing registration No. HR-38-W-5315 and goods contained therein, that were detained by the respondent on 05.08.2019.

3. The submission of learned counsel for the petitioner is that the tax in respect of the goods carried in the aforesaid conveyance already stands paid by the respective suppliers and that the petitioner was only transporting the goods. He has also drawn our attention to Section 129 (1) (c) of the CGST Act, which permits the release of the seized goods and conveyance upon furnishing a security equivalent to the amount payable towards tax and penalty. We, therefore, direct the respondents to release the vehicle aforesaid alongwith the goods, upon the petitioner furnishing a bank guarantee for the penalty amount under the CGST Act , DGST Act and Cess, totalling to Rs. 7,30,782/-

4. The petitioner shall also provide requisite proof in the form of monthly returns to establish that the tax on the goods in question, being transported, stands paid. In case, the tax in respect of the said goods has not been paid, the petitioner shall provide bank guarantee in respect of the amount of tax as well. The bank guarantee shall be provided within two weeks for today to the respondents, whereafter, the vehicle and the goods shall be released without any further delay.

5. List on 13.08.2020.

**VIPIN SANGHI, J**

**SANJEEV NARULA, J**

**JANUARY 15, 2020**

*Pallavi*