

High Court erred in entertaining writ petition against SCN alleging evasion of tax and quashing & setting aside the same: SC

Facts of the case: State of Punjab v. Shiv Enterprises - [2023] (SC)

A show cause notice was issued to assessee as to why the goods and the conveyance used to transport such goods shall not be confiscated under the provisions of Section 130 of the Punjab GST Act, 2017 and IGST Act, 2017 and CGST Act, 2017. The assessee approached the High Court and challenged the notice and the Court held that the notice was wrongly issued under Section 130 by alleging the wrongful claim of input tax credit. The department filed appeal against the order of the High Court.

Decision of the case:

The Honourable Supreme Court observed that there was a specific allegation with respect to evasion of duty, which was yet to be considered by appropriate authority who issued notice. However, in exercise of powers under Article 226 of Constitution of India, the High Court entertained writ petition against show cause notice and set aside said show cause notice under Section 130.

Since, it was premature for High Court to opine anything on whether there was any evasion of the tax or not, therefore the High Court had materially erred in entertaining writ petition against show cause notice and quashing & setting aside same. Thus, it was held that the impugned judgement passed by High Court was liable to be set aside and the matter was remanded to appropriate authority.