

254/2 CWP Nos.23111 and 24162 of 2018

M/S MODERN INSECTICIDES LIMITED VS STATE OF PUNJAB AND
OTHERS

Present: Mr.Rishabh Kapoor and Mr.Saurabh Kapoor,Advocates
for the petitioner in CWP-23111 of 2018 and
Mr.Rajiv Agnihotri, Advocate
for the petitioner in CWP-24162-2018.

Mr.Ankur Mittal, Addl.A.G., Haryana with
Mr.Manoj Dhankhar, AAG, Haryana.
Mr.Pankaj Gupta, Addl.A.G.Punjab.
Mr.Anshuman Chopra, Advocate for respondent No.3
in CWP-23111-2018.

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In terms of the order passed on 17.10.2018, Mr.M.P.Singh, IAS,
ACS(T) and Mr.Vivek Partap Singh, IAS ETC, Punjab; Mr.Sanjeev
Kaushal, IAS, Addl.Chief Secretary, E&T Department, Government of
Haryana and Ms.Ashima Brar, IAS, Excise & Taxation Commissioner,
Haryana are present in person in Court.

Issues raised by learned counsel for the petitioners have been
brought to their notice.

Apparently some of the issues require consideration at the
highest level so that there is uniform application of law.

Goods and Services Tax was introduced not for a particular
State but for uniform application of tax in the country.

In the cases in hand, penalty has been levied on the petitioners
under Section 129 of the Punjab Goods and Services Tax Act, 2017 (for
short, 'the Punjab Act') and Haryana Goods and Services Tax Act, 2017 (for
short, 'the Haryana Act'). The goods detained are still in custody of the
Departments concerned. Statutory appeals have been filed by the

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petitioners before the Appellate Authority in terms of Section 107 of the Act. As a pre-condition of filing appeal, 10% of the disputed tax amount has also been deposited. In terms of Section 107(7) of the Act, recovery of the balance amount is deemed to be stayed.

Section 129(1)(c) of the Act provides that goods can be released on furnishing of security as prescribed. Section 129(2) of the Act provides for application of Section 67(6) of the Act, which in turn has been referred to in Rule 140 prescribing the bond and the bank guarantee to be furnished.

Considering the fact that the legal issues sought to be raised by the petitioners need examination in detail by the GST Council and the goods detained are still in custody of the Departments concerned, we deem it appropriate to direct the respondents to release the goods on furnishing of security other than bank guarantee or cash. The needful be done within one week. As there is no dispute regarding identity of the goods, the release shall not be treated as provisional.

The appeals filed by the petitioners be taken up and disposed of expeditiously.

Adjourned to 13.12.2018.

A copy of the order be placed on the file of connected case.

(RAJESH BINDAL)
JUDGE

October 22, 2018
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(MAHABIR SINGH SINDHU)
JUDGE