

The State of Punjab v. M/s Shiv Enterprises & Ors.

Case number: Civil Appeal No. 359 of 2023, arising out of SLP (C) No. 19295 of 2022

Citation: Reasoned order dated 16 January 2023; no neutral or reporter citation verified

Decision date: 2023-01-16

GST procedure: premature writ interference with a confiscation show-cause notice and merits-preserving remand

Court: Supreme Court

Bench: M.R. Shah and C.T. Ravikumar, JJ.; no individual author identified in the signed order

Decision stage: Appeal partly allowed; section 130 notice restored and matter remanded for adjudication; release of goods undisturbed

01 Facts

The State of Punjab appealed the Punjab and Haryana High Court's order of 4 February 2022 in CWP No. 18392 of 2021. The High Court had set aside a goods/vehicle detention order dated 30 August 2021 and a confiscation show-cause notice dated 14 September 2021. The notice required the original writ petitioner to explain within fourteen days why the goods and transport conveyance should not be confiscated under the identified GST legislation and why tax, penalty and other charges should not be payable. The Supreme Court recorded a specific allegation of tax evasion in the notice. The High Court had nevertheless disposed of the challenge at the notice stage, including by making observations concerning allegedly wrongful input tax credit. The question before the Supreme Court was whether that intervention was premature, before the notice-issuing authority had considered the reply and decided the allegations.

Pinpoint: Paragraphs 1-5, signed order on official PDF pages 1-2. High Court case number also verified in the appended ROP on page 4.

02 Court Discussion

The Hon'ble Court held that the allegation of evasion still had to be examined by the competent authority after the taxpayer appeared and responded. It considered the High Court's account of the allegations factually incorrect and, independently, held that a conclusion on whether evasion had occurred was premature at this stage. The High Court had therefore materially erred in entertaining the challenge and quashing the section 130 notice on the reasoning used. The lengthy passage on input tax credit in paragraph 5 is a quotation from paragraph 29 of the High Court judgment; it is not a separate Supreme Court merits holding establishing that the taxpayer's credit was invalid or that confiscation was justified. The Supreme Court expressly declined to express a view on merits in favour of either side, especially against the taxpayer, and retained all available defences for adjudication. It separately declined to interfere with the goods-release order because the goods had already been released. This case-specific remand does not establish that every GST show-cause notice is immune from writ review in all circumstances.

Pinpoint: Paragraph 5, PDF pages 1-3; express merits reservation in paragraph 6 and preservation of defences in paragraph 7, page 3.

03 Decision

The Supreme Court set aside the High Court judgment only to the extent it had quashed the notice dated 14 September 2021 under section 130, and remanded the matter to the authority that issued the notice. It allowed the taxpayer four weeks from 16 January 2023 to file a reply, after which the authority was to make an appropriate order according to law and on the merits. All available contentions and defences were kept open. The already-completed release of the goods was not disturbed. The appeal was partly allowed to that extent, with no order as to costs. The four-week period was a case-specific direction from the date of this order, not a continuing or general extension for other notices.

Pinpoint: Paragraphs 5-8, PDF pages 2-3; appended ROP on page 4 confirms partial allowance in terms of the signed order.

04 In Favour Of

State of Punjab on restoration of the section 130 notice; taxpayer's released goods and merits defences preserved

Partly in favour of the State of Punjab on restoration of the confiscation notice and the opportunity to obtain adjudication. Shiv Enterprises retained the benefit of release of the goods and all substantive defences. There was no Supreme Court finding of proven evasion, wrongful ITC, liability to confiscation, tax or penalty. A remand permitting an authority to decide a notice must not be described as confirmation of its allegations or an unqualified Revenue victory.

Pinpoint: Paragraphs 5-8, PDF pages 2-3.

05 AKHB REVIEW POINT

AKHB REVIEW POINT: When considering a writ challenge to a GST notice, identify the precise jurisdictional or procedural defect and distinguish it from disputed facts that the statutory authority must determine. For a merits defence, preserve the notice, relied-on material, supply and movement records, and the taxpayer's reply. If using Shiv Enterprises, cite the limited interference and remand together with the express reservation of defences and the separate preservation of goods release. Do not cite the reproduced High Court passage as the Supreme Court's final interpretation of ITC entitlement. A release of goods and the disposal of confiscation proceedings are separate matters; obtain the actual post-remand order before advising that the dispute ended. In another case, check the applicable version of the confiscation provisions, the nature of the allegations and any established ground for writ intervention, rather than treating this short order as a blanket bar.

Pinpoint: AKHB analysis based on paragraphs 4-8, PDF pages 1-3.

Sources and limitations

Relevant provisions

Central Goods and Services Tax Act, 2017: section 130

Punjab GST Act, 2017 and Integrated Goods and Services Tax Act, 2017, as identified in the Court's description of the confiscation notice

Constitution of India: Article 226

Statutory note

The impugned detention and show-cause notice date from August-September 2021. This note reports the Court's procedural ruling on that record, not a complete historical or current section 130 commentary. The Court's description refers to CGST, Punjab GST and IGST legislation; the note does not expand those references into findings on every statutory precondition for confiscation. It does not decide all relationships between detention, confiscation and credit provisions or establish a general credit-disallowance rule. No comprehensive statutory/notification update through 12 October 2026 has been completed.

Treatment note

The complete official signed order and its same-date ROP were checked on 12 October 2026. Limited official-domain web searching did not establish a subsequent-treatment history; the web reader could not reopen the source URL during this check, while the preserved official PDF matched the inventory hash. No comprehensive review, clarification, later-judgment or post-remand-adjudication search has been completed. The note does not assert that the taxpayer filed a reply, that confiscation was later ordered, or that current proceedings remain pending. This AI-assisted AKHB research note is based on identified primary material. It does not represent verified human legal review and is not a substitute for professional advice on a particular case.

Scope of source review

All four pages of the official PDF were read. Pages 1-3 contain the signed order, paragraphs 1-8; page 4 is the same-date Record of Proceedings confirming leave and partial allowance. They form one judicial decision, not two separate decisions. The cover verifies the appeal and originating SLP numbers, page 3 verifies the bench and date, and page 4 identifies the underlying High Court proceeding. No individual author or neutral citation is printed. The signed relief and reservation of defences on page 3 were also visually checked. The available government-hosted alternate has the same source hash in the inventory and is not an additional decision. The merits are taken from the complete signed order, not a search summary.

Primary source

Source description: Supreme Court of India official signed order and appended Record of Proceedings dated 16 January 2023

Official source: [Open source document](#)

AKHB source PDF: [Open source document](#)

Judges: M.R. Shah; C.T. Ravikumar

Outcome type: final procedural

Disclosures and source rights

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