2025:PHHC:095495-DB

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-15712-2025 (O&M)
Date of Decision: 30.07.2025

SATNARAIN AND SONS

..... Petitioner(s)

Versus

JOINT COMMISSIONER CGST, FARIDABAD

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present: Mr. Gaurav Gupta, Advocate for
Mr. Saurabh Dalal, Advocate
for petitioner.

Mr. Prashant Rana, Advocate
for respondent.

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LISA GILL, J.

1. Primary ground raised by learned counsel for petitioner for laying challenge to order dated 01.02.2025 and show cause notice dated 02.08.2024 is that show cause notice dated 02.08.2024 has been issued for multiple financial years i.e. 2017-2018 to 2021-2022. However, learned counsel for respondent points out that though there is a mention of financial years 2017-2018 to 2021-2022 but notice was clearly and solely in respect to the financial year 2017-2018 and that order form DRC-07 dated 01.02.2025 has also been passed only in respect to financial year 2017-2018. Present writ petition, it is submitted, is not entertainable as petitioner has an efficacious remedy of appeal.

2. Having heard learned counsel for the parties, we do not find any exceptional or extra ordinary circumstance which would impel us to cause interference in the matter in exercise of jurisdiction under Article 226 of the Constitution of India. It has been held by Hon'ble the Supreme Court in a plethora of cases that interference in such like matters should be minimal and actuated only in exceptional cases. In the case of **Union Bank of India vs. Satyawati Tondon and others**, ***2010(8) SCC 110***, Hon'ble the Supreme Court while considering a matter under the SARFAESI Act held in this regard as under:-

> "17. ……*Both, the Tribunal and the Appellate Tribunal are empowered to pass interim orders under Sections 17 and 18 and are required to decide the matters within a fixed time schedule. It is thus evident that the remedies available to an aggrieved person under the SARFAESI Act are both expeditious and effective. Unfortunately, the High Court overlooked the settled law that the High Court will ordinarily not entertain a petition under Article 226 of the Constitution if an effective remedy is available to the aggrieved person and that this rule applies with greater rigour in matters involving recovery of taxes, cess, fees, other types of public money and the dues of banks and other financial institutions. In our view, while dealing with the petitions involving challenge to the action taken for recovery of the public dues, etc., the High Court must keep in mind that the legislations enacted by Parliament and State Legislatures for recovery of such dues are code unto themselves inasmuch as they not only contain comprehensive procedure for recovery of the dues but also envisage constitution of quasi judicial bodies for redressal of the grievance of any aggrieved person. Therefore, in all such cases, High Court must insist that before availing remedy under Article 226 of the Constitution, a person must exhaust the remedies available under the relevant statute.*
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> *18. While expressing the aforesaid view, we are conscious that the powers conferred upon the High Court under Article 226 of the Constitution to issue to any person or authority, including in appropriate cases, any Government, directions, orders or writs including the five prerogative writs for the enforcement of any of the rights conferred by Part III or for any other purpose are very*

wide and there is no express limitation on exercise of that power but, at the same time, we cannot be oblivious of the rules of self-imposed restraint evolved by this Court, which every High Court is bound to keep in view while exercising power under Article 226 of the Constitution. It is true that the rule of exhaustion of alternative remedy is a rule of discretion and not one of compulsion, but it is difficult to fathom any reason why the High Court should entertain a petition filed under Article 226 of the Constitution and pass interim order ignoring the fact that the petitioner can avail effective alternative remedy by filing application, appeal, revision, etc. and the particular legislation contains a detailed mechanism for redressal of his grievance. It must be remembered that stay of an action initiated by the State and/or its agencies/instrumentalities for recovery of taxes, cess, fees, etc. seriously impedes execution of projects of public importance and disables them from discharging their constitutional and legal obligations towards the citizens. In cases relating to recovery of the dues of banks, financial institutions and secured creditors, stay granted by the High Court would have serious adverse impact on the financial health of such bodies/institutions, which ultimately prove detrimental to the economy of the nation. Therefore, the High Court should be extremely careful and circumspect in exercising its discretion to grant stay in such matters. Of course, if the petitioner is able to show that its case falls within any of the exceptions carved out in Baburam Prakash Chandra Maheshwari v. Antarim Zila Parishad AIR 1969 SC 556, Whirlpool Corporation v. Registrar of Trade Marks, Mumbai (1998) 8 SCC 1 and Harbanslal Sahnia and another v. Indian Oil Corporation Ltd. and others (2003) 2 SCC 107 and some other judgments, then the High Court may, after considering all the relevant parameters and public interest, pass appropriate interim order.

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25. In Raj Kumar Shivhare v. Assistant Director, Directorate of Enforcement and another (2010) 4 SCC 772, the Court was dealing with the issue whether the alternative statutory remedy available under the Foreign Exchange Management Act, 1999 can be bypassed and jurisdiction under Article 226 of the Constitution could be invoked. After examining the scheme of the Act, the Court observed:

"31. When a statutory forum is created by law for redressal of grievance and that too in a fiscal statute, a writ petition should not be entertained ignoring the statutory dispensation. In this case the High Court is a statutory forum of appeal on a question of law. That should not be abdicated and given a go-by by a litigant for invoking the forum of judicial review of the High Court under writ jurisdiction."

3. Hon'ble the Supreme Court has clearly held that greater circumspection should be exercised by High Courts in matters involving recovery of taxes, cess, fee, public money etc. Statutory dispensation cannot be ignored in a routine or casual manner. It is reiterated that learned counsel for petitioner is unable to carve out an exception which calls for interference.

4. Keeping in view the facts and circumstances as above, writ petition is dismissed with liberty to petitioner to avail remedy(ies) as may be available to it, in accordance with law.

5. There is no expression of opinion on the merits of matter.

(LISA GILL)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

30.07.2025
Sunil

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No