IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No. 3903 of 2015
Date of Decision: 11.03.2015

M/s Amit Singla ..Petitioner

versus

Union of India and another ..Respondents

CORAM: HON'BLE MR. JUSTICE S.J.VAZIFDAR, ACTING CHIEF JUSTICE.
HON'BLE MR. JUSTICE G.S.SANDHAWALIA.

Present : Mr. Sandeep Goyal, Advocate, for the petitioner.

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S.J.VAZIFDAR A.C.J. (Oral)

The petitioner has challenged a show-cause notice dated 04.10.2013 issued pursuant to and under the provisions of Section 73(1) of the Finance Act, 1994 (for short 'the Act').

2. The petitioner contends that prior to the impugned show cause notice the respondents had served a show-cause notice dated 19.10.2010. One of the contentions in this first show cause notice was that the petitioner had suppressed material in respect of its business of 'Goods Transport Agency'. The respondents contended that the service tax was payable in respect of this part of the petitioner's business. By an order dated 27.06.2012 the Commissioner confirmed and ordered the recovery of an amount of service tax of about ₹ 70 lacs under section 73(1) of the Act in respect thereof. The order has been challenged by the petitioner before the Customs, Excise & Service Tax Appellate Tribunal, New Delhi. A stay against the order dated 27.06.2012, we are informed, has been granted and the appeal is pending.

3. The impugned show cause notice dated 04.10.2013 has been issued again under section 73 of the Act in respect of the assessment years 2008-09 to 2011-12. The earlier show-cause notice was in respect of the

assessment years 2005-06 to 2009-10. The petitioner contends that two years, namely, the years 2008-09 and 2009-10 are the subject matter of both the show cause notices. However, the second show cause notice is in respect of fresh material and relating to 'Cargo Handling Services" and 'Business Auxiliary Service'. It is contended that this fresh show cause notice even though in respect of different services could not be issued in respect of the period which is already the subject matter of the first show cause notice.

4. We do not consider it either necessary or appropriate to entertain a challenge to the show cause notice on this ground at this stage. Even the issue whether the further show cause notice can be issued in respect of the same assessment year but for different taxable services ought in the first instance be adjudicated upon by availing the alternate remedy provided under the Act. Issues of fact will also be required to be gone into in the event of the question being determined against the petitioner.

5. The writ petition is, therefore, dismissed. Needless to clarify that the petition has been dismissed only on the ground that the petitioner ought to avail of the alternate remedy. We have not expressed any views on-merits.

(S.J.VAZIFDAR)
ACTING CHIEF JUSTICE

11.03.2015 (G.S.SANDHAWALIA)
'ravinder' JUDGE