

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 571 of 2018**

- Harish Raisinghani S/o Laxmandas Raisinghani Aged About 55 Years R/o House No. A-28, Mamta Niwas, Mekosabagh, Sindhi Colony, Post Bejanbagh, Nagarpur, Maharashtra, District : Nagpur, Maharashtra

---- Appellant**Versus**

- Union Of India Through, Principal Commissioner, Central G S T, Central Excise And Customs, Central G S T Bhawan Dhamtari Road, Tikrapara, Raipur Chhattisgarh. 492001

---- Respondent

For Appellant	:	Ms. Amita Bais, Advocate
For Respondent	:	Shri Maneesh Sharma, Advocate

Hon'ble Shri Justice Manindra Mohan Shrivastava**Hon'ble Smt. Justice Rajani Dubey****Order On Board****25/07/2018**

This appeal arises out of impugned order dated 17/04/2018 passed by the learned Single Judge whereby the writ petition has been dismissed on the ground of existence of alternative remedy.

2. Learned counsel for the appellant argued with all vehemence at her command to persuade us to hold that in the present case, because of blatant violation of principles of natural justice and law governing the field, the Writ Court ought to have entertained the matter without insisting on exhaustion of alternative remedy. The submission of learned counsel for the appellant is that proper opportunity of hearing was not afforded and it is the case of the appellant that various documents were not filed, cross examination was also not permitted by the authority. On the aspect of law,

it is submitted that confiscation proceedings pursuant to two show cause notices itself is illegal and not permissible under various circumstances issued by the department.

3. On the ground of alleged violation of principles of natural justice, we find that the show cause notice was issued to the appellant and the impugned order shows that the appellant neither submitted his defence nor appeared before the authority on various dates of hearing. This factual assertion which are found in the impugned order are disputed by learned counsel for the appellant by submitting that the appellant had appeared but he was not heard. Whether having been served with the notice, appellant had some difficulty in not appearing before the authority because according to him, various information was not supplied, would essentially be a matter of detailed examination. As it is not a case of non-affording opportunity of hearing but alleged procedural impropriety in not affording proper opportunity of hearing and further that the other ground being confiscation proceedings in respect of two show cause notices, we find ourselves unable to interfere with the discretion exercised by the learned single judge in relegating the appellant to avail statutory remedy which is quite efficacious one as the appeal would be available before the STAT with a body of experts consisting of both administrative and judicial members. We find that mainly because the appellant will be required to comply with the pre-deposit requirement, the appellant has filed this appeal, though, all these issue could well be taken for consideration by the Tribunal. Therefore, we are not inclined to interfere with the order passed by the learned single judge. The appeal is accordingly dismissed.

Sd/-

(Manindra Mohan Shrivastava)
Judge

Sd/-

(Rajani Dubey)
Judge