

**HON'BLE THE ACTING CHIEF JUSTICE RAGHVENDRA SINGH CHAUHAN
AND
HON'BLE DR. JUSTICE SHAMEEM AKTHER**

WRIT PETITION No. 10207 of 2019

ORDER: *(per the Hon'ble the Acting Chief Justice Raghvendra Singh Chauhan)*

The petitioner is aggrieved by the orders dated 25.02.2019 and 28.02.2019, passed by the respondent No.2. By the first order, the petitioner was requested to workout the interest payable on the entire amount inclusive of the ITC availed, and also penalty payable under Section 122(iii) of the Goods and Services Act ('the Act', for short). By the latter order, the petitioner was directed to pay the interest, failing which, the recovery proceedings would be initiated under Section 79 of the CGST/SGST Act.

Mr. N. Prasad, the learned counsel appearing for Mr. A.K. Jaiswal, the learned counsel for the petitioner, submits that the order, dated 25.02.2019, is the recovery order, which has been passed without providing an opportunity of personal hearing to the petitioner. Immediately thereafter, the order, dated 28.02.2019, was passed. The said order was replied by the petitioner on 25.03.2019. Despite the petitioner has submitted its reply, the respondent No.2 has attached the bank account of the petitioner by notice, dated 29.04.2019. Hence, this petition before this Court.

According to the learned counsel, since the principles of natural justice have been violated, the petitioner is entitled to invoke the writ jurisdiction of this Court.

Heard the learned counsel for the petitioner, and perused the impugned orders.

The present writ petition is highly misplaced for Section 107 of the Act clearly provides an efficacious alternative remedy to the petitioner to approach the appellate authority. It is, indeed, a settled principle of law that generally, a writ jurisdiction cannot be invoked, in case the efficacious alternative remedy is available.

Even otherwise, the petitioner has approached this Court in order to circumvent the efficacious alternative remedy. For, according to Section 107(6) of the Act, an appeal can be filed provided the appellant makes the statutory deposit before the appellate authority. It is only in order to escape the said liability, the petitioner has rushed to this Court.

Even if the petitioner is of the opinion that the principles of natural justice have been violated, he is free to raise the said plea before the appellate authority.

For the reasons stated above, this Court is not inclined to invoke the writ jurisdiction. The writ petition is, therefore, dismissed.

Pending miscellaneous petitions, if any, shall also stand dismissed. There shall be no order as to costs.

RAGHVENDRA SINGH CHAUHAN, ACJ

Date: 08.05.2019

DR. SHAMEEM AKTHER, J

kvni/pln

