Sr. No.133

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP-1094-2020 (O&M)
Date of Decision : 16.01.2020**

M/s Evista Homes and Resorts Private Ltd. ...... Petitioner

Versus

Additional/Joint Commissioner, In-Charge of CGST Division-I, Central Goods and Services Tax Commissionerate and others.
...... Respondents

**CORAM : HON'BLE MR. JUSTICE AJAY TEWARI
HON'BLE MR. JUSTICE AVNEESH JHINGAN**
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Present : Mr. Akshay Bhan, Sr. Advocate
with Mr. Saurabh Gautam, Advocate &
Mr. Ankur Mittal, Advocate
for the petitioner.
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<u>AJAY TEWARI, J. (ORAL)</u>

1. By this petition the petitioner company has challenged the Show Cause Notice dated 17.10.2019 issued to it by the respondent.

2. As per the petitioner, it is in the business of 'construction of residential complex' service and in this particular case it is constructing 20 Cottages at Kasauli, out of them 10 were to be used as Residences and the remaining 10 to be used as Resort. At present 4 Cottages are under

construction. For these four Cottages, the petitioner company had received a sum of Rs.4.3 Crore as advance for handing over the Cottages for a period of 499 years. It was further stipulated that whenever the Cottages were to be occupied by the second party, the petitioner company would pay a sum of Rs.61.77 per day per room. As per the petitioner company, it was giving service tax on that basis.

3. The grievance is that this impugned show cause notice has been issued which is completely ultravires because of various reasons which have been detailed in the petition.

4. The second contention raised is that the requirement of Section 73 of the Finance Act, 1994 have not been met before invoking the extended period of limitation. It has also been urged that this method has been followed all over the country for development of residential complexes.

5. When we pointed out to the learned Senior Counsel that the petitioner company could file a reply to the impugned show cause notice, he has argued that in fact the authority has made up its mind and this show cause notice is just a chimera to pull the wool over the eyes of the Assessee and none of the conditions under Section 73 of the Finance Act, 1994 have been met.

6. Be that as it may, we deem it appropriate to relegate the petitioner to his remedy of filing a detailed reply with a direction to the competent authority to decide the issue by passing a speaking order on each of the contentions raised before it.

7. Ordered accordingly. Petition stands disposed of.

8. Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

January 16, 2020 **(AVNEESH JHINGAN)**
ashish **JUDGE**

Whether speaking/reasoned Yes/No

Whether Reportable : Yes/No