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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 29th January, 2020

\+ W.P.(C) 1120/2020

M/S DELHI GYMKHANA CLUB LTD. ..... Petitioner
Through: Mr. Prabhat Kumar Sahu, Adv.

versus

PRINCIPAL COMMISSIONER, CENTRAL TAX, DELHI (SOUTH) CENTRAL TAX COMMISSIONEATE ..... Respondent
Through: Mr. Amit Bansal, Sr. Standing Counsel with Mr. Aman Rewaria and Ms. Vipasha Mishra, Advs.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE C.HARI SHANKAR

ORDER

% **29.01.2020**

D.N. PATEL, CHIEF JUSTICE (ORAL)

W.P.(C) 1120/2020

1. This writ petition has been preferred against a show cause notice dated 23rd September, 2019 issued by the respondent for the recovery of sum of ₹ 13,12,03,670/-.

2. Having heard learned counsel for both the sides and looking to the facts and circumstances of the case, it appears that *vide* show cause notice dated 23rd September, 2019, this petitioner has been called upon to show

cause as to why the aforesaid amount should not be recovered from them. Thus, it appears that the final adjudication of the show cause notice by the respondent is yet to take place and hence we see no reason to entertain this writ petition at a pre-mature stage. It is also submitted by learned counsel for both the sides that the aforesaid show cause is yet to be replied by the petitioner despite the fact that it was issued in the month of September, 2019.

3. In the matter of ***Commissioner of Central Excise, Haldia v. Krishna Wax (P) Ltd.,*** reported at ***2019 (368) E.L.T. 769 (S.C.)*** Hon'ble the Supreme Court in para 12 thereof held as under :

> *"12. It has been laid down by this Court that the excise law is a complete code in itself and it would normally not be appropriate for a Writ Court to entertain a petition under Article 226 of the Constitution and that the concerned person must first raise all the objections before the authority who had issued a show cause notice and the redressal in terms of the existing provisions of the law could be taken resort to if an adverse order was passed against such person. For example in* **Union of India v. Guwahati Carbon Limited, 2012 (278) ELT 26 (SC)***, it was concluded; "The Excise Law is a complete code in order to seek redress in excise matters and hence may not be appropriate for the writ court to entertain a petition under Article 226 of the Constitution", while in* **Malladi Drugs and Pharma Ltd. v. Union of India, 2004 (166) ELT 153 (SC)***, it was observed:—*
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> > *"...The High Court, has, by the impugned judgment held that the Appellant should first raise all the*

objections before the Authority who have issued the show cause notice and in case any adverse order is passed against the Appellant, then liberty has been granted to approach the High Court…

…in our view, the High Court was absolutely right in dismissing the writ petition against a mere show cause notice."

4. In view of the aforesaid decision also, we see no reason to entertain this writ petition.

5. Hence, this writ petition is hereby dismissed.

CHIEF JUSTICE

C.HARI SHANKAR, J.

JANUARY 29, 2020/kr