

CWP-1333 of 2021

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
(PROCEEDINGS THROUGH V.C.)**

CWP-1333 of 2021
Date of Decision: 22.04.2021

Modi Alloys & Metalics Pvt. Ltd. and another

...Petitioners

Versus

Commissioner, Central Goods & Service Tax and another

....Respondents

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE ASHOK KUMAR VERMA**

Present:- Mr. Deepak Gupta, Advocate, for the petitioners.
Mr. Saurabh Goel, Advocate, for the respondents.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioners have approached this Court alleging that the documents have not been supplied as has been asked by the petitioners.

On 21.1.2021 following order passed passed: -

“It is the contention of the learned counsel for the petitioners that although the statutory appeal is available against the order dated 07.12.2020 (Annexure P-6) but in the present case there has been violation of principles of natural justice especially in the light of the fact that the records were all in the custody of the respondents and despite the petitioners having been requested for supplying the said record, the same was neither supplied nor the petitioners permitted to inspect the said record because of which the petitioners could not respond to the notice

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effectively. The impugned order, therefore, which has been passed by the competent authority, is not sustainable.

Mr. Sourabh Goel who appears on behalf of respondents prays for a short adjournment to seek instructions with reference to the assertions made by the learned counsel for the petitioners.

List on 12.02.2021.

No coercive steps will be taken by the respondents in pursuance to the impugned order till the next date of hearing.”

In pursuance thereto, reply has been filed by way of affidavit by the respondents initially on 11.2.2021 to which rejoinder has been filed by the petitioners leading to another additional affidavit to be filed by the respondents. At each stage, the factual assertions which have been made by the petitioners and as projected by the respondents further complicate the factual aspects. Today again, petitioners have filed another affidavit dated 20.04.2021. Perusal of these affidavits and counter-affidavits lead to a situation where there appears to be factual disputes which cannot be gone into by way of the present writ petition.

It is an admitted position that there is a statutory remedy of appeal available to the petitioners, which the petitioners must avail of in the light of these peculiar facts and circumstances. It would be open to the petitioners to raise all the pleas as have been raised in the present writ petition, including the aspect of non-supply of the documents, thus violating the principles of natural justice. In case, the petitioners file an appeal within a period of two weeks from today, delay in filing the appeal

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shall not be taken as a ground for rejection of the appeal. Endeavour be also made by the Appellate Authority to decide the appeal at an early date.

Disposed of with above observations/directions.

(Augustine George Masih)
Judge

April 22, 2021
R.S.

(Ashok Kumar Verma)
Judge

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No