IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-23378-2021 (O&M)
Date of decision: 20.12.2021

M/s Navkkar Jewellers .... Petitioner

Versus

Union of India and others .... Respondents

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI
HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. K.L. Goyal, Senior Advocate with
Mr. Rishab Singla, Advocate
for the petitioner.

Ms. Urvashi Dhugga, Senior Standing Counsel
for the respondents.

(Through Video Conferencing)

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AJAY TEWARI, J (ORAL)

CM-18852-CWP-2021

Application for placing on record reply by way of affidavit of Pardeep Kumar Ganeja, has been filed on behalf of respondents is allowed, subject to all just exceptions. Reply is taken on record.

Main case

On 02.12.2021, the following order was passed:-

> "The primary contention of the learned senior counsel for the petitioner is that originally notice was issued in January 2020 to which reply was filed on 13.02.2020 (Annexure P-11). Thereafter, the respondents called upon the customers of respondents to confirm whether they had made the purchases alleged and the mode of payment. The order itself

reads that most of the customers have confirmed the purchases. Thereafter, notices were issued to the petitioner after about 1 year and 7 months, i.e. on 21.09.2021 and 23.09.2021 (Annexure P-15 and P-17 respectively) and the order was passed on 30.09.2021 (Annexure P-21).

The grounds taken in the order were that no supporting documents of the purchases were given by the customers of the petitioner, but no opportunity was given to either the petitioner or his customers.

The limited prayer made by learned senior counsel is that this is a case where the principles of natural justice are not satisfied and consequently, he is only praying that the fresh order be passed after given an opportunity to the petitioner to meet the grounds which have been raised by the office.

Notice of motion for 16.12.2021.

Notice re: stay.

On the asking of the Court, Ms. Urvashi Dhugga, Senior Panel Counsel, accepts notice on behalf of the respondents and seeks time to get instructions."

2. Reply has been filed, whereby the action has been sought to be defended. There is however no dispute about the fact that no hearing was afforded to the petitioner before passing the order.

3. In our considered opinion, the issues raised in the case are such that oral hearing should have been granted.

4. Learned counsel for the revenue has further stated that the assessee could well raise all the contentions raised herein in the grounds of statutory appeal, as the order impugned herein is an appealable order.

5. No doubt that is so, but where Courts have come to the conclusion that the principles of natural justice have not been satisfied, the existence of an alternate remedy has been held to be not a bar to the exercise of jurisdiction under Article 226 of the Constitution of India.

6. In the circumstances, we set aside the assessment order order dated 30.09.2021 (Annexure P-21) and direct the assessing officer to reframe the assessment after giving an opportunity of hearing to the petitioner.

7. Parties through counsel are directed to appear before the Assessing Officer on 29.12.2021 or any other date which Assessing Officer may direct him to appear, who is then directed to pass a fresh assessment within a period of one month thereafter.

8. Petition stands disposed of in above terms.

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

(AJAY TEWARI)
JUDGE

(PANKAJ JAIN)
JUDGE

20.12.2021
Dinesh

Whether speaking/reasoned	:	Yes
Whether Reportable	:	No