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

CWP-10341-2022 (O&M)
Date of Decision : 30.05.2022

Manish Kumar ....Petitioner

Versus

Union of India and others ....Respondents

**CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA
HON'BLE MR.JUSTICE PANKAJ JAIN**

Present:- Mr. Rishab Singla, Advocate
for the petitioner.

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TEJINDER SINGH DHINDSA, J.(ORAL).

Petitioner has filed the instant petition seeking quashing of the order dated 30.03.2022 (Annexure P-10) as also the computation sheet dated 30.03.2022 (Annexure P-11) and notice of demand dated 30.03.2022 (Annexure P-12), whereby assessment of the petitioner has been framed.

We have heard learned counsel at length.

Even though in para 21 of the writ petition, it has been averred that remedy of the appeal lies under the statute itself but it has been contended that same would not be an efficacious remedy.

It was primarily argued that the copy of reasons recorded as also approval by the competent authority under Section 151 of the Income Tax Act with regard to the re-assessment proceedings had not been provided inspite of repeated requests. It is urged that the proceedings have been conducted in contravention to the provisions of

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the Income Tax Act and in violation of the principles of natural justice.

Having heard counsel at length, we are, however, of the considered view that the petitioner ought to avail of the statutory remedy of appeal under Section 246-A of the Income Tax Act.

In taking such view, we may refer to the judgment of the Hon'ble Supreme Court in ***Munshi Ram vs. Municipal Committee, Chheharta, (1979) 3 SCC 83,*** wherein it had been observed that where a revenue statute provides for a person aggrieved by an assessment thereunder, a particular remedy to be sought in a particular forum, in a particular way, it must be sought in that forum and in that manner, and all other forums and modes of seeking remedy are excluded. Such view was reiterated by the Apex Court in ***Union of India vs. Guwahati Carbon Limited 2012 (11) SCC 651*** and subsequently in Commissioner of ***Income Tax and another vs. Chhabil Dass Aggarwal and another 2014(1) SCC 603***.

Learned counsel apart from citing other judgments has placed reliance upon a recent judgment of the Hon'ble Supreme Court in ***Magadh Sugar and Energy Ltd. Vs. State of Bihar and others, 2021 SCC Online SC 801,*** wherein the issue as regards the exercise of writ jurisdiction under Article 226 of the Constitution of India, against the availability of an alternative remedy of an appeal was dealt with and certain principles were summarised. It was argued that in a case where there has been violation of natural justice, a writ petition under Article 226 of the Constitution of India would be maintainable.

We are of the view that it is only in a case under

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extraordinary circumstances and where there is blatant violation of principles of natural justice that we would be inclined to entertain a writ petition under Article 226 of the Constitution of India.

In the facts of the present case, the assertion as regards violation of principles of natural justice would raise a question of fact. It is an issue which the petitioner ought to raise in appeal itself. Even in the case of ***Magadh Sugar's case (supra)*** it had been observed as follows :

> *"Wherein a right is created by a statute, which itself prescribes the remedy or procedure for enforcing the right or liability, resort must be had to that particular statutory remedy before invoking the discretionary remedy under Article 226 of the Constitution. This rule of exhaustion of statutory remedies is a rule of policy, convenience and discretion."*

In view of the above and without opining on the merits of the case, the writ petition is disposed of in terms of granting liberty to the petitioner to avail of the statutory remedy as has been provided under the statute.

(TEJINDER SINGH DHINDSA)
JUDGE

(PANKAJ JAIN)
JUDGE

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Whether speaking/reasoned? Yes/No
Whether reportable? Yes/No

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