IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(128) **CWP-260-2024**
Decided on : 08.01.2024

M/s Stic Travels Private Limited

……Petitioner(s)

Versus

Union of India and others

……Respondent(s)

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MS.JUSTICE LAPITA BANERJI

Present: Mr. J.K. Mittal, Advocate and
Mr. Arjun Kundra, Advocate for the petitioner (s).

Mr. Alankrit Bhardwaj, Advocate for respondent Nos.1 & 3.

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G.S. Sandhawalia, J. (Oral)

Challenge in the present writ petition filed under Articles 226 & 227 of the Constitution of India is to the order (Annexure P-12) passed under Section 73(9) of the CGST Act, 2017 (for short 'the Act') read with Section 20 of the IGST Act, 2017. The order records that the tax-payer has not provided any response to the show cause notice issued within the time prescribed and neither the tax-payer appeared for personal hearing and, therefore, it has been recorded that the tax-payer has nothing to say on the matter and the demand mentioned in the show cause notice still stands good.

2. A perusal of the paper-book would go on to show that in pursuance of the show cause notice dated 29.09.2023 (Annexure P-9) issued under Section 73(5) of the Act, apparently the petitioner was put to notice to appear in person on 06.12.2023 vide notice dated 02.12.2023 (Annexure P-10). The petitioner apparently filed various representations on 18.10.2023 and 15.11.2023 for seeking time to file reply which would be clear from the communication dated 09.12.2023 (Annexure P-11) wherein also similar relief was prayed. Apparently in spite of that the petitioner did not put in appearance before the concerned authority leading to the passing of the impugned order Annexure P-12 under Section 73(9).

3. In the paragraph No.18 of the writ petition, the petitioner has specifically averred that there is no efficacious remedy of appeal or revision but during the course of hearing counsel for the petitioner has admitted that an appeal would lie under Section 107 of the Income Tax Act, 1961 (for short '1961 Act'). It is open to the petitioner to deposit in full such part of the amount of tax, interest, fine, fee and penalty under Section 107(6)(a) of the 1961 Act, as admitted by him. It is also not disputed that the appeal filed would be entertained if the petitioner deposits 10% of the remaining amount of tax in dispute alongwith interest.

4. In such circumstances, keeping in view the conduct as such of the petitioner who chose to sit back and has not responded to the show cause notices, we are not inclined to exercise our extra-ordinary writ jurisdiction to examine whether the notices are without jurisdiction at the hands of a luxurious litigant who chose not to respond to the notice and now seeks to invoke the jurisdiction of this Court. Resultantly, the present writ petition is dismissed with the liberty to the petitioner to avail of his alternate remedy of appeal before the concerned authorities. Needless to say that we have not observed anything on the merits of the case and in case the petitioner makes his case good before the authorities concerned, we are also sanguine that the Appellate Authority will keep all these facts in mind while deciding the appeal.

5. With the aforesaid observations, the writ petition stands dismissed.

(G.S. SANDHAWALIA)
JUDGE

(LAPITA BANERJI)
JUDGE

08.01.2024
Naveen

Whether speaking/reasoned :	Yes	
Whether Reportable :		No