(2016) 02 P&H CK 0260

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 2333 of 2016

Ruchi Infotek Systems — APPELLANT

Vs

Union of India and Others — RESPONDENT

Date of Decision : 10-02-2016

Acts Referred:
Central Excises and Salt Act, 1944 — Section 11A(1)

Citation : (2016) 02 P&H CK 0260

Hon'ble Judges : Surya Kant and Raj Mohan Singh, JJ.

Bench : Division Bench

Advocate : Akshay Bhan, Senior Advocate and Amrinder Singh, Advocate, for the Appellant;

Final Decision : Disposed Off

Judgement

Surya Kant, J.—1. The petitioner was served with a show-cause notice dated 28.01.2011 (P-1) by the Commissioner, Customs and Central Excise, Jammu calling upon it to show-cause in respect of the alleged fraudulent availing of the refund of duty amount of Rs. 14,27,88,976/- and why the same be not recovered by invoking the extended period of time limitation under proviso to Section 11A(1) of the Central Excise Act, 1944 alongwith interest thereon under Section 11AB of the Act.

2. It appears that some other business concerns with whom the petitioner had business transactions were also served with such show cause notices.

3. The show cause notice(s) came to be challenged before the High Court of Jammu and Kashmir in a bunch of writ petitions filed in the years 2011, 2012 or subsequently. Those writ petitions have been finally dismissed on 28.05.2015 with liberty to the noticees like the petitioner to file objections before the authorities, who in turn has been directed to consider the objections and pass appropriate order on merits after giving them personal hearing.

4. Pursuant thereto, further proceedings arising out of the show cause notice

dated 28.01.2011 have commenced against the petitioner.

5. The petitioner moved an application before the Inquiring Authority, raising not only the preliminary objections or contesting the claim on merits but it also gave a list of official and private persons to whom the petitioner wants to cross-examine as their statements are said to have been relied upon in the formation of tentative opinion contained in the show-cause notice.

6. The said application for summoning the witnesses for cross-examination has been, in a way, disposed of by the Inquiring Authority vide the impugned order dated 28.01.2016 observing that the request for cross-examination "is too big and too vague and hence cannot be acceded to" and that another opportunity of hearing after a fortnight be given for which the matter is posted.

7. From the contents of the impugned order, it is difficult to assume that the Competent Authority has outrightly rejected the petitioner''s request to cross-examine the witnesses. What it appears is that the Authority is yet to form a definite opinion in respect of the statement(s) to be relied upon by it and we have no reason to doubt that as and when such an opinion is formed, the Competent Authority is fully aware of the law and procedure including the principles of natural justice, to be observed by it before passing a valid order.

8. The writ petition stands disposed of accordingly.

