

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 32314 of 2011

ORDER:

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Heard learned counsel for the petitioner and Government Pleader for Revenue. With the consent of both the parties, the main writ petition is heard at the admission stage itself.

The present writ petition came to be filed seeking issuance of writ of mandamus to declare the proceedings of the second respondent vide Rc.No.581/2011/A, dated 01.11.2011, as illegal, arbitrary and violative of principles of natural justice.

A perusal of the impugned order, dated 01.11.2011, would clearly indicate that the petitioner has a right of appeal before the District Collector, but without availing the said remedy the present writ petition came to be filed having regard to the observations made in Para No.2 of the impugned order, which according to the petitioner are un-warranted.

The Government Pleader for Revenue submits that since a remedy of appeal is available, the petitioner could have raised all the aspects before the appellate authority instead of approaching this Court directly. In any event he submits that there is no illegality in the said order.

The Apex Court in **Commissioner of Income Tax v.Chhabil Dass Agarwal** held that “*the High Court will not entertain a petition under Article 226 of Constitution, if an effective alternative remedy is available to the aggrieved person or the statute under which the action complained of has been taken itself contains a mechanism for redressal of grievance still holds the field. Therefore, when a statutory forum is created by law for redressal of grievances, a writ petition should not be entertained ignoring the statutory dispensation.*”

In view of the judgment referred to above, without going into the merits of the case and having regard to the submissions made, the writ petition is disposed of directing the petitioner to prefer an appeal before the District Collector concerned within four (04) weeks from today, in which event, the appellate authority shall deal

with the same by perusing the record, after giving opportunity of hearing all the parties and pass orders in accordance with law within eight (08) weeks from the date of such filing. Till such time the interim order, dated 12.04.2012 shall stands in force. The petitioner is at liberty to raise all the issues (factual and legal) including the correctness or otherwise of the observations made in Para No.2 of the impugned order. No order as to costs.

Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE C. PRAVEEN KUMAR

02.11.2015

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