THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE SMT JUSTICE ANIS

WRIT PETITION No. 22631 of 2016

ORDER: ***(Per VRS,J)***

The petitioner has come up with the present writ petition challenging an order in original passed by the Joint Commissioner, Service Tax, imposing upon the petitioner, a demand for a sum of Rs.15,09,491/- under Section 73 (2) of the Finance Act, 1994
(for brevity "the Act") read with Section 66 of the Act. Interest at the stipulated rate, as per Section 75, and penalty of Rs.5,000/- under Section 77 was also levied by the said order.

2. But admittedly, the petitioner availed the alternative remedy of filing an appeal under Section 85 of the Act, to the Commissioner (Appeals), as against the very same order. By the time the writ petition came up for orders at admission, the appeal has also been disposed of, by a final order, dated 14.07.2016.

3. The petitioner cannot choose to ride on two horses. Irrespective of the fact that the petitioner challenges the

very jurisdiction of the original authority to initiate proceedings beyond the period of limitation, the order under challenge in the present writ petition has also merged with the order passed by the appellate authority. Therefore, we do not want to entertain the writ petition and, hence, it is dismissed. It is open to the petitioner to work out his remedies, as against the order in appeal.

Consequently, miscellaneous petitions if any pending in the writ petition shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

ANIS, J.

5th August, 2016
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