

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.A.Nos.1407 to 1409 of 2017
and CMP Nos.19206 to 19208, 19210 and 19212 of 2017

M/s.Coastal Oil and Gas Infrastructure Pvt Ltd.,
Rep. by Deputy General Manager - Projects,
No.7, EID Parry Compound,
Judge Bungalow Road, Cuddalore - 607 001.

... Appellant in all W.A.s.

versus

1. The Assistant Commissioner (CT),
Cuddalore Town Circle,
Cuddalore - 607 001.

2. The Branch Manager,
Bank of India,
Corporate Banking Branch Chennai,
C.B.B. 4th Floor, Tarapore Towers,
Mount Road, Chennai - 600 002.

3. The Branch Manager,
State Bank of India,
Rajbhavan Road,
Somajiguda, Hyderabad 500 082

... Respondent in all W.A.s.

Writ Appeals filed against the common order dated 07.02.2017 in
W.P.Nos.41443 to 41445 of 2017

For Appellant : Mr. C.Baktha Siromani
in all W.A.s

COMMON JUDGMENT

(Order of the Court was delivered by **S.MANIKUMAR, J.**)

M/s.Coastal Oil and Gas Infrastructure Private Limited, represented by the Deputy General Manager - Projects, Cuddalore, is the appellant in the instant writ appeals. As facts pleaded and submissions made are common, they are disposed of by a common judgment.

2. In W.P.Nos.41443 to 41445 of 2016, the appellant has challenged the assessment orders passed by the first respondent herein, vide proceedings in TIN 33524383769 for the assessment years 2010-11, 2011-12 and 2012-13 respectively, dated 18.07.2016.

3. Short facts leading to the appeal are that the appellant is a company, entered into an agreement, with another entity by the name 'M/s.Nagarjuna Oil Company Limited' [in short "NOCL"]. Agreement was executed on 26.05.2010 and titled as "Terminalling Service Agreement". By virtue of the said agreement appellant was required to build storage terminals for the benefit of NOCL. Land on which the terminal was required to be constructed was owned by NOCL. Agreement required the appellant to design, to provide engineering, to procure the requisite construction materials and to erect the terminal, for the use of NOCL.

4. Scrutinising the returns, the Assistant Commissioner (CT), Cuddalore Town Circle, Cuddalore, 1st respondent passed an order dated 18.07.2017. As consideration to facts and submissions are same, suffice to incorporate the final determination of the Assistant Commissioner (CT) (FAC), Cuddalore Town, 1st respondent for the above assessment years.

For Assessment Year 2010-11

"On the basis of the above discussions, the objection filed is overruled and the proposal is confirmed.

The total and taxable turnover is determined for the year 2010-11 under sec.22(4) of the Act as shown below.

Turnover determined

Details	Turnover	Rate	Tax due
Deemed sales Turnover of goods determined	Rs.12,80,22,410.00	4%	Rs.51,20,896.00
Total and taxable turnover determined	Rs.12,80,22,410.00		Rs.51,20,896.00

Tax due : Rs.51,20,896.00

ITC available : Rs.NIL

Tax paid : Rs.NIL

Balance : Rs.51,20,896.00

A demand notice in Form 'O' is issued.

The dealers have claimed ITC of Rs.18,83,026/- during the assessment year 2010-11. The dealers had claimed insurance to a tune of Rs.20,18,41,053.00 for the damage incurred due to the cyclone THANE affected in December 2011. Hence the entire credit of ITC of Rs.18,83,026.00 is to be reversed U/s.19(9) (ii) of the TNVAT Act 2006. The claim of ITC is reversed to the extent of Rs.18,83,026.00. There is no ITC at credit.

Levy of penalty under Section 22(5) of the Act.

As the dealers have wilfully not disclosed the deemed sale value

of goods in the returns, it attracts levy of penalty U/s.22(5) of this Act at 150% of the tax due.

Penalty levied : Rs.76,81,344.00
 Penalty paid : Rs.NIL
 Balance : Rs.76,81,344.00

A demand notice form "RR" is issued.

For Assessment Year 2011-12

"On the basis of the above discussions, the objection filed is overruled and the proposal is confirmed.

The total and taxable turnover is determined for the year 2011-12 under sec.22(4) of the Act as shown below.

Turnover determined

Details	Turnover	Rate	Tax due
Deemed sales Turnover of goods determined upto June 2011	Rs.38,79,86,062.00	4%	Rs.1,55,19,442.00
Deemed sales Turnover of goods determined	Rs.1,29,21,70,311.00		Rs.6,46,08,516.00
Total and taxable turnover determined	Rs.1,68,01,56,373.00		Rs.8,01,27,958.00

Tax due : Rs.8,01,27,958.00

ITC available : Rs.62,20,295.00

Tax paid : Rs.NIL

Balance : Rs.7,39,07,663.00

A demand notice in Form 'O' is issued.

Levy of penalty under Section 22(5) of the Act.

The penalty was wrongly proposed in the notice adopting rate of tax at 4% instead of 4% and 5% on the escaped turnover.

Balance of tax on escaped turnover : Rs.7,39,07,663.00

Tax paid as per returns : Rs.NIL
Balance : Rs.7,39,07,663.00

As per Section 22(5), the penalty is leviable at 150% of the tax due on the escaped turnover.

Penalty levied : Rs.11,08,61,495.00
Penalty paid : Rs.NIL
Balance : Rs.11,08,61,495.00

A demand notice form "RR" is issued.

For Assessment Year 2012-13

"On the basis of the above discussions, the objection filed is overruled and the proposal is confirmed.

The total and taxable turnover is determined for the year 2012-13 under sec.22(4) of the Act as shown below.

Turnover determined

Details	Turnover	Rate	Tax due
Deemed sales Turnover of goods determined	Rs.6,26,54,680.00	4%	Rs.31,32,734-
Total and taxable turnover determined	Rs.6,26,54,680.00		Rs.31,32,734-

Tax due : Rs.31,32,734.00
ITC available : Rs. 3,17,008.00
Tax paid : Rs.NIL
Balance : Rs.28,15,726.00

A demand notice in Form 'O' is issued.

Levy of penalty under Section 22(5) of the Act.

As per Section 22(5), the penalty is leviable at 150% of the tax due on the escaped turnover.

Penalty levied : Rs.42,23,589.00
Penalty paid : Rs.NIL
Balance : Rs.42,23,589.00

A demand notice form "RR" is issued.

5. Material on record discloses that being aggrieved by the abovesaid orders for the assessment years, 2010-11, 2011-12 and 2012-13, respectively, petitioners have filed rectification petition under Section 84 of the TNVAT Act, praying to set aside the errors and mistakes alleged to have been committed in the assessment orders for the above said years. Considering the petitions, the Assistant Commissioner (CT), Cuddalore Town Assessment Circle, dismissed the petitions by orders dated 30.09.2016. As similar orders are passed on the rectification petitions, suffice to incorporate, one such order dated 30.09.2016.

Order for the Assessment year 2010-11

TIN:33524383769/2010-11

Office of the Assistant
Commissioner (CT)
Cuddalore Town
Assessment Circle

Dated : 30-09-2014

To

- 1) Tvl. Coastal Oil and Gas Infrastructure Pvt Ltd.,
NOCL Refinery Project, Periyakuppam Village and Post,
Cuddalore 608 801
- 2) Tvl. Coastal Oil and Gas Infrastructure Pvt Ltd.,
No.7-1-23/2, 2nd Floor, Roxana Towers, Green Lands,
Begumpet, Hyderabad - 500 016, Telangana.

Sir,

Ref : This Office assessment proceedings in
TIN:33524383769/10-11 dt. 18.7.16
This office recovery notice dt.15.9.16

Your letter dt.19.9.16

Your letter dt.30.9.16

In this office reference 1st cited assessment orders were passed on 18.7.16 for the year 2010-11 and the same was served on 11.8.16. The time of payment of taxes expired on 12.9.2016.

You have not paid the taxes due thereon, to a notice issued requesting you to pay the arrears you have replied that you are in process of preferring for appeal and requested to withdraw the recovery process. It was duly replied.

In the mean time you have submitted a letter referred 4th above and requested to pass fresh orders under Section 84 of TNVAT Act 2006, by setting aside the errors and mistakes in the assessment dt 1st read above,

As there is no error or mistake in the orders already passed on 18.7.16, your request could not be complied with.

Assistant Commissioner (CT) (FAC)
Cuddalore Town.

6. Thereafter, demand notice dated 26.10.2016, has been issued for a sum of Rs.20,46,10,713.00 for the assessment years 2010-11 to 2012-13, as below

Name of the Dealer : Tvl. Coastal Oil and Gas Infrastructure Pvt Limited

TIN No. : 33524383769

Act : VAT

Year

2010-11

Amount

Tax : Rs. 51,20,896.00

Penalty : Rs. 76,81,344.00

2011-12	Tax	: Rs. 7,39,07,663.00
	Penalty	: Rs.11,08,61,495.00
2012-13	Tax	: Rs. 28,15,726.00
	Penalty	: Rs. 42,23,589.00
Total		: Rs.20,46,10,713.00

7. After suffering orders in the rectification petitions filed under Section 84 of the TANVAT Act, 2006, the appellant has chosen to file W.P.Nos.41443 to 41445 of 2016 challenging the original assessment orders dated 18.07.2016, issued by the Assistant Commissioner (CT), Cuddalore Town Circle, Cuddalore for the assessment years 2010-11 to 2012-13, contending inter alia that the assessing officer has failed to consider that payment have been made to ABIR Infrastructures Private Limited [in short 'ABIR'], sub contractor and as per Rule 8(5) of the TNVAT Rules 2007, [in short 'Rules'], the same has to be adjusted, which assessing officer has failed to consider and erred in passing the orders impugned in the writ petition.

8. Before the writ Court, contention has been made, that when the abovesaid issue involves a question of law, assessment orders, deserve to be interfered with. Refuting the above, revenue has contended that the abovesaid contention being a question of fact can always be addressed in the appeal, if any filed. After hearing the learned counsel for the parties and

after considered the reasoning of the assessment officer, in one of the orders dated 18.07.2016, pertaining to the assessment year 2010-11, the writ Court extracted the same, as hereunder

"..... 1. The dealers in their application for registration as a dealer in Col.4. against the commodities dealt/to be dealt, they have furnished as works contract.

2. For the works contract activities, the dealers have got registration under TNVAT Act 2006. In the contract, the assessee had purchased and supplied the goods to the sub-contractors.

3. The dealers have effected purchases of goods both local and Inter-State to the value of Rs.11,41,01,970/- and transferred the goods to the works spot of ABIR by making material issue voucher. This shows the dealers is doing contract works.

4. The dealers have purchased goods locally for which they have claimed ITC on the purchases. But they have not reported the disposal of goods in the return. The transfer of goods might have been reported in the return. Thus the Terminalling Service Agreement is defected (SIC).

5. These are all the normal conditions for contract agreements. But there is violations of provision of TNVAT Act 2006.

6. The dealers are works contractor according to our records.

7. The Section 5 of the Act is extracted in this para. There is transfer of property in goods during the assessment year.

8. There is transfer of property in goods. But the dealers have not reported the deemed sale value of goods. They have extracted the Sec.2[43] the definition for works contract.

9. This is not the reply to the notice.

10. The notice dated 03.10.2014 was issued on this basis of recorded evidences. There is no willful misleading of T.S.A.

11. There is proof for purchases of goods and transfer of goods in the contract. The notice is properly issued.

12. Even though the assessee received payment on Terminating Service Agreements, the records filed to this office was not supported the above statement.

After issue of notice, the dealers have decided to reverse the claim of ITC in their letter dated 24.2.2015. After the detection by the department, the dealers have come to this conclusion to reverse the amount. The dealers have stated that they have reversed the claim of ITC in the returns for the month of February 2015.

Finally they have requested to drop the proposal in the notice dated 03.10.2014.

On the basis of the above discussions, the objection filed is overruled and the proposal is confirmed."

9. After considering the reasoning and rival submissions and though, writ petitions have been filed beyond the statutory period provided therefor, for filing the appeal and taking note of the decisions of the Hon'ble Supreme Court in ***M.P.Steel Corporation Vs. Commissioner of Central Excise***, reported in 2015 (5) Scale 505, ***J.Kumaradasan Nair V. IRIC Sohan***, reported in (2009) 12 SCC 175 and ***Raj Kumar Shivhare Vs. Assistant Director, Directorate of Enforcement***, reported in (2010) 4 SCC 772, dismissed the writ petitions by giving liberty to the appellant, to approach the concerned statutory authority.

10. Perusal of the order made in the writ petitions impugned before us

indicates that though submission has been made by the learned counsel for the appellant, that they do not have the requisite funds to make a pre deposit of 25% of the disputed tax, taking note of the observations of the Hon'ble Supreme Court in ***Raj Kumar Shivhare Vs. Assistant Director, Directorate of Enforcement***, reported in (2010) 4 SCC 772, in particular, paragraph No.31 at page 781, writ Court declined to accept the said contention regarding pre deposit.

11. Though in the instant writ appeals filed against the order made in W.P.Nos.41443 to 41445 of 2016 dated 07.02.2017, Mr.C.Baktha Siromani, learned counsel for the appellant reiterated the very same grounds and contended that there is a jurisdictional error, and question of law is involved, in not considering the aspect of adjustment of payments made to the sub contractor viz., ABIR, in terms of Rule 8(5)(c) of the TNVAT Rules, 2007, we are not inclined to accept the said contention for the purpose of entertaining the instant writ appeals.

12. Facts indicate that the orders of assessment dated 18.07.2016, were sought to be rectified by filing applications under Section 84 of the TNVAT Act, 2006 and finding that there is no error apparent on the face of the record, said petitions have been dismissed on 30.09.2016. Assessment orders merges with

the orders passed in the rectification petitions. When the petitioner/appellant is aware of the dismissal of the rectification petitions, it is not known as to how, the petitioner/appellant, has not chosen to challenge the subsequent orders.

13. Though admittedly, writ petitions have been filed beyond the statutory period provided for an appeal to be filed, before the competent authority, writ Court has exercised discretion in favour of the appellant granting liberty to file appeals against the original assessment orders.

14. Section 54 of the TNVAT Act, 2006 is as follows:

"54. Powers of revision of Deputy Commissioner: (1) Any person objecting to an order passed or proceeding recorded under this Act for which an appeal has not been provided for in section 51 or section 52 may within a period of thirty days from the date on which a copy of the order or proceeding was served on him, in the manner prescribed file an application for revision of such order or proceeding to the Deputy Commissioner:

Provided that the Deputy Commissioner may within a further period of thirty days admit an application for revision presented after the expiration of the first mentioned period of thirty days, if he is satisfied that the applicant had sufficient cause for not presenting the application within the first mentioned period.

(2) An application for revision shall be in the prescribed form and shall be verified in the prescribed manner.

(3) On admitting an application for revision, the Deputy Commissioner may call for and examine the record of the order or proceeding against which the application has been preferred and may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Act, pass such order thereon as he thinks fit.

(4) Notwithstanding that an application has been preferred under sub-section (1), the tax, fee or other amount shall be paid in accordance with the order or proceeding against which the application has been preferred:

Provided that the Deputy Commissioner may in his discretion give such directions as he thinks fit, in regard to the payment of such tax, fee or other amount before the disposal of revision, if the applicant furnishes sufficient security to his satisfaction in such form and in such manner as may be prescribed.

(5) No order under this section adversely affecting a person shall be passed unless that person has had a reasonable opportunity of being heard.

15. An order under rectification petition can be challenged only by way of a revision under Section 54 of the Act. Despite the same, exercising discretion in favour of the appellant, writ Court has granted liberty to file the appeal. Though, Mr.C.Baktha Siromani, learned counsel for the appellant contended that the writ Court has failed to advert to the jurisdictional issue and question of law and merely relegated the appellant to go before the competent authority, by way of an appeal, issue as to whether adjustment of payments made to the sub contractor i.e. ABIR in terms of Rule 8(5)(c) of the

TNVAT Rules 2007, ought to have been considered by the Assessing Officer, can always be addressed before the appellate authority. When the writ Court has relegated the said issue to be adjudicated before the competent authority, if any appeal is filed, finding to be record by us on the above, would amount to transgressing the powers of the appellate authority to address both on facts and Law. Direction of the writ Court, cannot be said to be erroneous. When subject matter is relegated to the concerned forum or the authorities concerned, as the case may be, writ Court is not bound to record a finding either on fact or law. In such a view of the matter, contentions to the counter are not tenable.

16. On more than one occasion, the Hon'ble Supreme Court as well as this Court, consistently held that writ against the assessment orders, ought not to be interfered with, when there is an effective and alternative remedy under the taxation statute. Reference can be made to few decisions, in this regard.

(i). In ***Union of India v. T.R.Verma, AIR 1957 SC 882***, the Hon'ble Supreme Court held that it is well settled that when an alternative and equally efficacious remedy is open to a litigant, he should be required to pursue that remedy and not to invoke the special jurisdiction of the High Court to issue a prerogative writ. It will be a sound exercise of discretion to refuse to

interfere in a petition under Article 226 of the Constitution, unless there are good grounds to do, otherwise.

(ii) In *C.A.Ibrahim v. ITO*, AIR 1961 SC 609, *H.B.Gandhi v. M/s. Gopinath & sons*, 1992 (Suppl) 2 SCC 312 and in *Karnataka Chemical Industries v. Union of India*, 1999 (113) E.L.T. 17(SC) = 2000 (10) SCC 13, the Hon'ble Supreme Court held that where there is a hierarchy of appeals provided by the statute, the party must exhaust the statutory remedies before resorting to writ jurisdiction.

(iii) The general principles of law to be followed while entertaining a writ petition, when an alternative remedy is available, as per the decision of the Hon'ble Apex Court in *U.P.State Spinning Co. Ltd. Vs. R.S.Pandey and Another* (2005) 8 SCC 264, at para No.11 are as follows:

"Except for a period when Article 226 was amended by the Constitution (Forty-Second Amendment) Act, 1976, the power relating to alternative remedy has been considered to be a rule of self-imposed limitation. It is essentially a rule of policy, convenience and discretion and never a rule of law. Despite the existence of an alternative remedy it is within the jurisdiction or discretion of the High Court to grant relief under

Article 226 of the Constitution. At the same time, it cannot be lost sight of that though the matter relating to an alternative remedy has nothing to do with the jurisdiction of the case, normally the High Court should not interfere if there is an adequate efficacious alternative remedy. If somebody approaches the High Court without availing the alternative remedy provided, the high Court should ensure that he has made out a strong case or that there exist good grounds to invoke the extraordinary jurisdiction."

(iv) In **United Bank of India Vs. Satyawati Tondon and Others** {(2010) 8 SCC 110}, the Hon'ble Apex Court, at paragraph Nos.43 to 45, held as follows:-

"43. Unfortunately, the High Court overlooked the settled law that the High Court will ordinarily not entertain a petition under Article 226 of the Constitution if an effective remedy is available to the aggrieved person and that this rule applies with greater rigour in matters involving recovery of taxes, cess, fees, other types of public money and the dues of banks and other financial institutions. In our view, while dealing with the petitions involving challenge to the action taken for

recovery of the public dues, etc., the High Court must keep in mind that the legislations enacted by Parliament and State Legislatures for recovery of such dues are a code unto themselves inasmuch as they do not only contain comprehensive procedure for recovery of the dues but also envisage constitution of quasi-judicial bodies for redressal of the grievance of any aggrieved person. Therefore, in all such cases, the high Court must insist that before availing remedy under Article 226 of the Constitution, a person must exhaust the remedies available under the relevant statute.

44. While expressing the aforesaid view, we are conscious that the powers conferred upon the High Court under Article 226 of the Constitution to issue to any person or authority, including in appropriate cases, any Government, directions, orders or writs including the five prerogative writs for the enforcement of any of the rights conferred by Part III or for any other purpose are very wide and there is no express limitation on exercise of that power but, at the same time, we cannot be oblivious of the rules of self-imposed restraint evolved by this Court, which

every High Court is bound to keep in view while exercising power under Article 226 of the Constitution.

45. It is true that the rule of exhaustion of alternative remedy is a rule of discretion and not one of compulsion, but it is difficult to fathom any reason why the High Court should entertain a petition filed under Article 226 of the Constitution and pass interim order ignoring the fact that the petitioner can avail effective alternative remedy by filing application, appeal, revision etc., and the particular legislation contains a detailed mechanism for redressal of his grievance.”

(v) In **Nivedita Sharma Vs. Cellular Operators Association of India and Others** {(2011) 14 Supreme Court Cases 337}, the Honourable Apex Court held that,

“An alternative remedy is not a bar to the entertaining of writ petition filed for the enforcement of any of the fundamental rights or where there has been a violation of the principles of natural justice or where the order under challenge is wholly without jurisdiction or the vires

of the statute are under challenge. The Court has recognised some exceptions to the rule of alternative remedy. However, the high Court will not entertain a petition under Article 226 of the 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 or grievance still holds the field.”

(vi) The Hon'ble Apex Court, after considering a catena of cases, in **Shauntlabai Derkar and Another Vs. Maroti Dewaji Wadaskar** {(2014) 1 Supreme Court Cases 602}, at para Nos.15 to 18, held as follows:-

"15. Thus, while it can be said that this Court has recognised some exceptions to the rule of alternative remedy i.e, where the statutory authority has not acted in accordance with the provisions of the enactment in question, or in defiance of the fundamental principles of judicial procedure, or has resorted to invoke the provisions which are repealed, or when an order has been passed in total violation of the principles of natural justice, the proposition laid down in Thansingh Nathmal Case {Thansigh Nathmal Vs. Supt. of Taxes, AIR 1964 SC 1419}, Titaghur Paper Mills Case {Titaghur Paper Mills Co. Ltd Vs. State of Orissa (1983) 2 SCC 433} and other similar judgments

that the High Court will not entertain a petition under Article 226 of the 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.

16. In the instant case, the Act provides complete machinery for the assessment/reassessment of tax, imposition of penalty and for obtaining relief in respect of any improper orders passed by the Revenue Authorities, and the assessee could not be permitted to abandon that machinery and to invoke the jurisdiction of the High Court under Article 226 of the Constitution when he had adequate remedy open to him by an appeal to the Commissioner of Income Tax (Appeals). The remedy under the statute, however, must be effective and not a mere formality with no substantial relief. In *Ram and Shyam Co. Vs. State of Haryana* (1985) 3 SCC 267, this Court has noticed that if an appeal is from "Caesar to Caesar's wife", the existence of alternative remedy would be a mirage and an exercise in futility.

17. In the instant case, neither has the writ petitioner assessee described the available alternate remedy under the Act, as ineffectual and non-efficacious while invoking the writ jurisdiction of the High Court nor has the High Court ascribed cogent and satisfactory reasons to have exercised its jurisdiction in the facts of the instant case. In light of the same, we are of the considered opinion that the writ Court ought not to have entertained the writ petition filed by the assessee, wherein he has only questioned the correctness or otherwise of the notices issued under Section 148 of the Act, the reassessment orders passed and the consequential demand notices issued thereon.

18. In view of the above, we allow this appeal and set aside the judgment and order passed by the High Court in Chhabil Dass Agarwal Vs. Union of India {W.P.(c) No.44 of 2009, decided on 5/10/2010}. We grant liberty to the respondent, if he so desires, to file an appropriate petition/appeal against the orders of reassessment passed under Section 148 of the Act within four weeks' time from today. If the petition is filed before the appellate authority within the time granted by this Court, the appellate authority within the time granted by this Court, the appellate

authority shall consider the petition only on merits without any reference to the period of limitation. However, it is clarified that the appellate authority shall not be influenced by any observation made by the High Court while disposing of Writ Petition (Civil) No.44 of 2009, in its judgment and order dated 5/10/2010."

(vii) After considering a plethora of judgments, in **Union of India and Others Vs. Major General Shri Kant Sharma and Another** {(2015) 6 SCC 773}, at para 36, the Apex Court held as follows:-

"The aforesaid decisions rendered by this Court can be summarised as follows:-

(i). The power of judicial review vested in the High Court under Article 226 is one of the basic essential features of the Constitution and any legislation including the Armed Forces Tribunal Act, 2007 cannot override or curtail jurisdiction of the High Court under Article 226 of the Constitution of India (Refer: L.Chandrakumar Vs. Union of India (1997) 3 SCC 261 and S.N.Mukherjee Vs. Union of India (1990) 4 SCC 594.

(ii). The jurisdiction of the High Court under Article 226 and this Court under Article 32 though cannot be circumscribed by the provisions

of any enactment, they will certainly have due regard to the legislative intent evidenced by the provisions of the Acts and would exercise their jurisdiction consistent with the provisions of the Act (Refer: Mafatlal Industries Ltd., Vs. Union of India (1997) 5 SC 536.

(iii). When a statutory forum is created by law for redressal of grievances, a writ petition should not be entertained ignoring the statutory dispensation. (Refer: Nivedita Sharma Vs. Cellular Operators Assn. of India (2011) 14 SCC 337.

(iv). The High Court will not entertain a petition under Article 226 of the 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. (Refer: Nivedita Sharma Vs. Cellular Operators Assn. of India (2011) 14 SCC 337.)"

(viii) In **Veerappa Pillai Vs. Raman & Raman Ltd {1952 SCR 583}**, **CCE Vs. Dunlop India Ltd {(1985) 1 SCC 260}**, **Ramendra Kishore Biswas Vs. State of Tripura {(1999) 1 SCC 472}**, **Shivgonda Anna Patil Vs. State of Maharashtra {(1999) 3 SCC 5}**, **C.A.Abraham Vs. ITO {(1961) 2 SCR 765}**, **Titaghur Paper**

Mills Co Ltd., Vs. State of Orissa {(1983) 2 SCC 433}, H.B.Gandhi Vs. Gopi Nath & Sons {1992 Supp (2) SCC 312}, Whirlpool Corpn Vs. Registrar of Trade Marks {(1998) 8 SCC 1}, Tin Plate Co. of India Ltd., Vs. State of Bihar {(1998) 8 SCC 272}, Sheela Devi Vs. Jaspal Singh {(1999) 1 SCC 209} and Punjab National Bank Vs. O.C.Krishnan {(2001) 6 SCC 569}, this Court held that where hierarchy of appeals is provided by the statute, the party must exhaust the statutory remedies before resorting to writ jurisdiction.

17. In the light of the above discussion and decisions, all the writ appeals are dismissed. No Costs. Consequently, the connected Civil Miscellaneous Petitions are closed.

[S.M.K., J.] [R.S.K., J.]
06.11.2017

Index : Yes/No
Internet : Yes
Speaking/non-speaking order

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To

1. The Assistant Commissioner (CT),
Cuddalore Town Circle,
Cuddalore - 607 001.

2. The Branch Manager,
Bank of India,
Corporate Banking Branch Chennai,
C.B.B. 4th Floor, Tarapore Towers,
Mount Road, Chennai - 600 002.

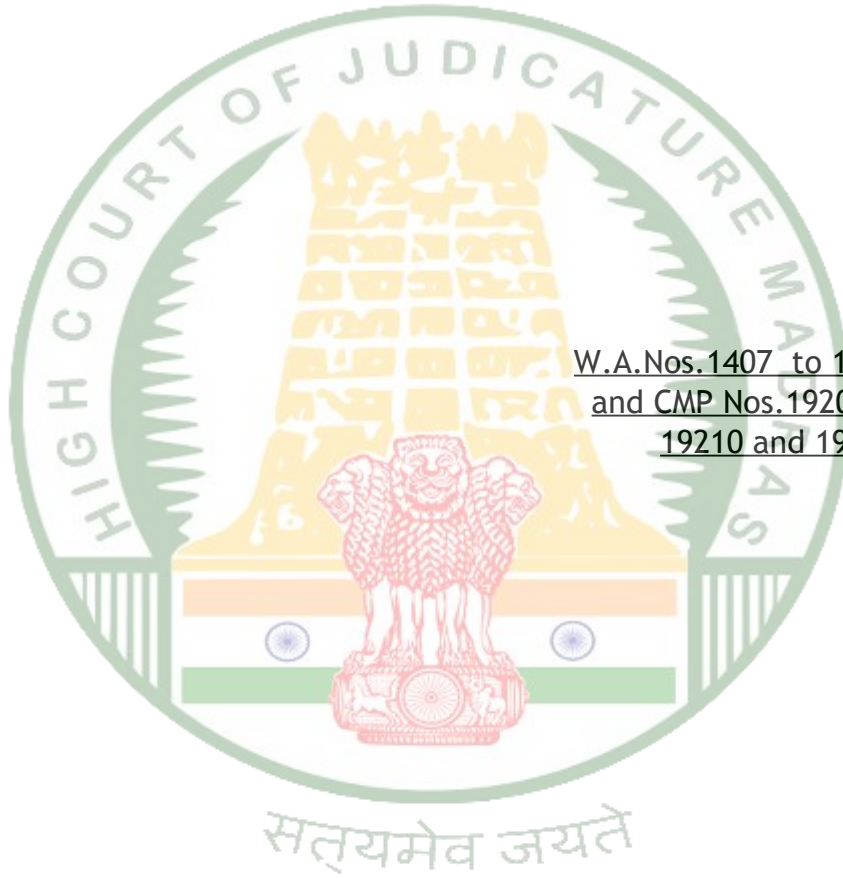
3. The Branch Manager,
State Bank of India,
Rajbhavan Road,
Somajiguda, Hyderabad 500 082



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