IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 02.08.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.15914 of 2006
&
W.P.M.P.No.15716 of 2006

Baywest Power & Energy Private Ltd.,
433, 9th Cross, 8th Main Road
II Stage, RMV Extention II, MIG
Bangalore - 560 094
Rep. by its Senior Manager
Sri.A.Sathyanathan .. Petitioner

Vs.

The Assistant Commissioner of
Income Tax
Company Circle I (2)
121, Nungambakkam High Road
Chennai - 600 034 .. Respondent

Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari to call for the records in PA/G.I.R No.BX4-226/AAACB3113G dated 17.03.2006 for the Assessment Year 2001-02 of the respondent.

For Petitioner : Mr.M.P.Senthilkumar
for M/s. Mallika Srinivasan,

For Respondent : Mr.Hema Muralikrishnan
Standing counsel

O R D E R

Heard Mr.M.P.Senthil Kumar, learned counsel for the petitioner and Ms.Hema Muralikrishnan, learned counsel for the respondent.

2. The petitioner in this writ petition has challenged the order of assessment passed by the respondent dated 17.03.2006 for the Assessment years 2001-02. The petitioner has raised various contentions challenging the order of assessment. Similar prayer was made by the petitioner with regard to the Assessment Orders passed for the Assessment Years 1999-2000 and 2000-01 dated 30.03.2004 by filing W.P.Nos.12760 and 12761 of 2004. The said writ petitions were

dismissed by order dated 12.03.2007. The operative portion of the said order reads as follows:

> "11.We agree with the submissions made by the learned standing counsel appearing for the respondent herein. A perusal of the orders impugned herein show that the issues raised in the writ petitions were taken before the respondent too, who had passed the orders after considering the same. Since the issue involved in the writ petitions required investigation into the facts, including the issue on jurisdiction, we do not find any extraordinary circumstance to go into the merits. It is a matter for the statutory authorities to consider if and when an appeal is preferred.
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> 12. Admittedly, the assessee has an alternative remedy, and it is not denied that it is an efficacies remedy. In a recent decision reported in 279 ITR 342 (Dr.K.NEDUNCHEZHIAN VS. DEPUTY CIT), a Division Bench of this Court, affirmed the decision reported in 274 ITR 37 (Dr.K.NEDUNCHEZHIAN VS. DEPUTY CIT) and following the decision of the Apex Court, held that when there is an alternative remedy, ordinarily, writ jurisdiction under Article 226 of the Constitution of India should not be invoked and that the principle applies with greater force to this proceedings.
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> 13.Considering the issues involved and applying the decision cited above, we dismiss the writ petitions. It is open to the assessee/petitioner to prefer appeal, if they deem fit, within a period of thirty days from the date of receipt of a copy of this order. No costs. Consequently, the connected M.P.Nos.14866 and 14867 of 2004 and W.V.M.P.No.572 of 2005 are closed."

3. The above referred decision is made in the Assessee's own case and identical grounds have been raised in the present writ petition as well. Therefore, the decision in the earlier writ petition would bind the Assessee as the grounds are more or less identical in the instant case.

Accordingly, the writ petition is dismissed. It is open to the assessee / petitioner to prefer an appeal if they deem it appropriate, within a period of 30 days from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

gpa

To

The Assistant Commissioner of
Income Tax
Company Circle I (2)
121, Nungambakkam High Road
Chennai - 600 034

+ 1 cc to M/s. Mallika Srinivasan, Advocate SR.55357
+ 1 cc to Ms. Hema Muralikrishnan, Advocate SR.55388

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RJ(CO)
EU 28.08.17