IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELATE JURISDICTION

WRIT PETITION NO. 8817 OF 2018

M/s. Siemens Ltd. .. Petitioner

v/s.

The State of Maharashtra & Ors. ..Respondents

Mr. N. Venkatraman, Senior Counsel a/w Mr. C.B. Thakar, Mr. Rahul Thakar for the petitioner
Ms. Shruti Vyas, B Panel Counsel for respondent nos. 1 to 3

CORAM : M.S. SANKLECHA &
RIYAZ I. CHAGLA, J.J.

DATED : 21st SEPTEMBER, 2018.

P.C.

1. This petition has been filed under Article 226 of the Constitution of India challenging (a) the constitutional validity of Section 48(5) of the Maharashtra Value Added Tax Act, 2002 (MVAT Act) and (b) the order dated 22nd March, 2018 passed by the Deputy Commissioner of Sales Tax under Section 23(2) of MVAT Act.

2. So far as the first issue regarding constitutional validity is concerned, this Court in ***Mahalaxmi Cotton Ginning Pressing and Oil Industires Vs. State of Maharashtra & Ors. (2012) 51 VST 1*** has upheld the constitutional validity of this very provision. Thus, it is

concluded issue and cannot be entertained.

3. So far as challenge to the impugned order dated 22nd March, 2018 passed by the Deputy Commissioner of Sales Tax is concerned, we find that the petitioner has already filed an appeal to the Joint Commissioner of Sales Tax (Appeals) challenging the impugned order dated 22nd March, 2018.

4. In the above view, as the petitioner has already availed of the alternative remedy, there is no reason for us to entertain the petition in our extra ordinary writ jurisdiction under Article 226 of the Constitution of India.

5. Accordingly, petition is dismissed.

(RIYAZ I. CHAGLA, J.) **(M.S. SANKLECHA, J.)**