

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 13955 OF 2018

Kisan Agro Mart Pvt. Ltd.
Through its Authorized Director
Anil Radhakishan Shukla .. Petitioner

Versus

The Income Tax Officer Ward No. (2)
Jalgaon and others .. Respondents

Shri Chandak Raviraj R., Advocate for the Petitioner.
Shri Alok M. Sharma, Advocate for Respondent Nos. 1 and 2.
Shri Sanjiv B. Deshpande, A.S.G. for the Respondent No. 3.

**CORAM : S. V. GANGAPURWALA AND
A. M. DHAVAL, JJ.**

DATE : 12TH MARCH, 2019.

FINAL ORDER :

. Mr. Chandak, the learned advocate for the petitioner assails the rejection of it's objection to the notice for reopening the assessment.

2. Mr. Sharma, the learned counsel for respondent Nos. 1 and 2 submits that, the assessment has been concluded and the petitioner has challenged the said assessment by filing an appeal before the Commissioner Appeals on 17.01.2019.

3. Mr. Chandak, the learned counsel refers to the judgment of the Apex Court in a case of **Jeans Knit Pvt. Ltd. Vs. Deputy Commissioner of Income** reported in (2017) 390 *ITR (S.C.)*, so also the judgment of this Court in a case of **Bharat Jayantilal Patel Vs. Union of India and others** reported in *ITR 2015 (378)-596 (Bom)* and the judgment of the Apex Court in a case of **Calcata Discount Co. Ltd. Vs. Income Tax Officer** reported in (1961) 41*ITR 191 (SC)*.

2. In all these judgments referred to above, the party had not availed the remedy of appeal and had challenged the order in a petition under Article 226 of the Constitution of India.

3. In the present case, the petitioner has already availed remedy of appeal by filing substantive appeal before Commissioner Appeals challenging the assessment order. The petitioner can raise all the grounds as raised in the present petition in the substantive appeal filed.

4. In view of the above, we are not inclined to entertain the present writ petition. The writ petition accordingly stands disposed of. No costs.

[A. M. DHAVAL, J.]

[S. V. GANGAPURWALA, J.]

bsb / March 19