R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5724 OF 2019

GE Power Systems India Pvt Ltd .. Petitioner

Versus

Deputy Commissioner of Sales Tax,
Large Tax Payer Unit-IV, Mumbai & Anr. .. Respondents

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- Mr. Sujit Ghosh with Ms. Mannat Warich i/by V.P. Patankar for the Petitioner
- Mr. M.M. Pable, AGP for the State

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CORAM : AKIL KURESHI &
SARANG V. KOTWAL, JJ.

DATE : MAY 3, 2019.

P.C.:

1. Not on board. Taken on board.

2. Heard learned counsel for final disposal of the petition.

3. The petitioner has challenged an order of assessment passed by the Deputy Commissioner of Sales Tax dated 30.3.2019. By such order, said Authority has imposed sizable tax liability on the petitioner. The petitioner disputes such tax liability on multiple grounds, however, in view of the fact that statutory appellate remedy is available to the petitioner, we are not inclined to entertain the petition.

4. Learned counsel for the petitioner has made strenuous efforts to persuade us to bypass such remedy arguing that pure question of law arises and that the order of Assessing Authority suffers from breach of natural justice. However, for multiple reasons, we are not inclined to accede this suggestion. Firstly, as noted, there is availability of statutory appellate remedy. In fiscal matters, the Court would be extremely slow in bypassing such remedies and entertaining the Writ Petition directly made against the order of the assessment. Secondly, even if we were to examine the petitioner's contention of some legal error at the hands of the Assessing Authority, the same would not take care of all disputes of the petitioner. Essentially, therefore, there would be a part of the petitioner's challenge which as a Writ Court, it would not be possible or convenient for us to undertake examination of.

5. While saying so, we realize that the petitioner is threatened with coercive recovery of the entire tax demand, iIn view of the fact that after the order of assessment is passed, the petitioner applied for rectification before the same Authority, such rectification application was decided sometime later. Though substantial relief was granted to the petitioner, the same does not fully satisfied the petitioner.

6. Under these circumstances, the petition is disposed of with following directions:-

i. It would be open for the petitioner to file appeal before the Appellate Authority. If the petitioner files such appeal latest by 31.5.2019, the same shall be entertained on merits.

ii. If the petitioner along with such appeal makes pre-deposit of tax as per the statute and and applies to the Appellate Authority for stay of the remaining demand pending appeal, till such application is decided, there shall be no coercive recovery.

7. We have not expressed opinion on rival contentions.

8. Petition disposed of accordingly.

[SARANG V. KOTWAL, J.] **[AKIL KURESHI, J]**