

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Present :- Hon'ble Mr. Justice Md. Nizamuddin

WPA 4305 of 2022

With

WPA 4308 of 2022

B.D Tea Estates Pvt. Ltd.

Vs.

The State of West Bengal & Ors.

For the Petitioner

**:- Mr. Pranit Bag, Adv.
Mr. P.K. Jewrajaka, Adv.
Ms. Pooja Jewrajaka, Adv.**

For the State

**:- Mr. A. Ray, Adv.
Mr. T.M. Siddiquie, Adv.
Mr. S. Mukherjee, Adv.
Mr. D. Ghosh, Adv.
Mr. N. Chatterjee**

Judgment on

:- 06.05.2022

MD. NIZAMUDDIN, J.

Heard learned Counsel appearing for the parties.

By the consent of the parties both the Writ Petitions being WPA No. 4305 of 2022 & WPA No. 4308 of 2022 are heard together and disposed of by this common judgment in view of similarity of facts and points of law involve in both the Writ Petitions and only difference is the year of assessment and both these Writ Petitions arise out of the impugned orders dated 26th March, 2021 and 18th February, 2021 respectively passed by the Appellate authority confirming the assessment orders dated 19th August, 2013 relating to assessment years 2009-10 and 2007-08 respectively passed by the Agricultural Income Tax Officer under Section 5 (3) of the Bengal Agricultural Income Tax Act, 1944 and rectification order dated 8th August, 2016.

For the sake of convenience WPA No. 4305 of 2022 is taken up and discussed.

In this Writ Petition, Petitioner has challenged the impugned order of the first Appellate authority under Bengal Agricultural Income Tax Act, 1944, dated 26th March, 2022, passed on the Appeal of the petitioner filed under Section 34 (1) of the Bengal Agricultural Income Tax Act, 1944 confirming the assessment order dated 19th August, 2013 and rectification order dated 8th August, 2016 passed by the assessing officer.

On perusal of records, pleadings, grounds and prayers made in the Writ Petition it appears that the petitioner itself at the first instance has chosen to challenge the assessment order in question before the first Appellate authority which has confirmed the said assessment order and instead of further challenging the same before the second Appellate authority which is West Bengal Taxation Tribunal, if so aggrieved, petitioner wants this Writ Court to indirectly interfere with the aforesaid assessment order by interfering with the impugned order of the first Appellate authority mainly on the ground that the first Appellate authority has not considered its contention that while passing the assessment order, assessing officer has wrongly interpreted law set out in Bengal Agricultural Income Tax Act, 1944 and a circular in question published through Gazette Notification dated 23rd August, 2006 and that the petitioner is aggrieved by the method of computation adopted by the assessing officer in his assessment as appears from the grounds taken in the Writ Petition.

From nowhere it appears on perusal of the pleadings and grounds in the Writ Petition challenging the impugned order of the first Appellate authority that the same is without jurisdiction or it has violated the principles of natural justice while passing the impugned order or any procedural irregularity has been committed by the first Appellate authority in passing the impugned order. It is not the case of the petitioner that no alternative remedy is available before any forum under the statute against the aforesaid impugned order or that the

alternative remedy available is not speedy and efficacious for redressal of its grievance or that there is specific bar under the statute on the second appellate authority/Tribunal to adjudicate the issues involved or arising out of the impugned order of the first appellate authority or the nature of relief it has asked for in the instant Writ Petition can't be granted by the Appellate Tribunal or constitutional validity of any provision of law is involved in this writ Petition.

Petitioner's sole contention for avoiding the statutory alternative remedy of Appeal before the West Bengal Taxation Tribunal against the impugned order of the first Appellate authority which it has voluntarily chosen at the first instance to challenge the assessment order in question, mainly are that alternative remedy is no bar in invoking constitutional writ jurisdiction of this Court under Article 226 of the Constitution of India since there is erroneous interpretation of law by the assessing officer in passing the assessment order in question and wrong interpretation of law is a pure question of law and secondly that it is aggrieved by the method of computation of income adopted by the assessing officer in the assessment while determining the Agricultural Income Tax and contends that even though it may not have challenged the said assessment order before this Writ Court at the first instance and had gone to the first Appellate authority against the said assessment order in question and in spite of availability of further Appellate forum of West Bengal Taxation Tribunal against the impugned order of the first Appellate authority and there may not be any bar for the said Tribunal in adjudicating the issue involved and in granting the nature of relief asked for by it in the instant Writ Petition, still it can further challenge the impugned order of the first Appellate authority before the Writ Court instead of approaching the Tribunal. In support of its such contention, it relies on the following judgments:

- a) *Aircel Ltd. v. Commercial Tax Officer* [WP (Civil) Nos. 1055 and 1057 of 2013]; [2016 (56) GST 306 (SC)]
- b) *UOI v. State of Haryana* [2000 (10) SCC 482] @ p.3

c) Magadh Sugar and Energy Ltd. v. State of Bihar & Ors. [2021 SCC OnLine SC 801] @ para 29 (issue of jurisdiction is a pure question of law)

Learned Advocate appearing for the respondents opposes this Writ Petition by submitting that this Writ Petition is not maintainable since the impugned order of the first Appellate authority is appealable before the West Bengal Taxation Tribunal under Section 8 of the West Bengal Taxation Tribunal Act, 1987, in view of Section 36 of the Bengal Agricultural Income Tax Act, 1944 and further submits that under the said Tribunal Act, 1987 jurisdiction of a Single Bench of the High Court has been completely ousted under Article 226 of the Constitution. Learned Advocate further submits that the instant Writ Petition should not be entertained since the main ground of challenge before this Writ Court against the impugned order of the first Appellate authority is about misinterpretation of relevant provisions of law by the assessing officer in assessment proceeding and terming the same as pure question of law, West Bengal Taxation Tribunal is competent enough under the statute to decide such question of law as well as on merit of the assessment. He also submits that when the petitioner itself has already chosen to avail the alternative remedy at the first instance by preferring appeal before the first Appellate authority against the assessment order in question and remedy before the Taxation Tribunal by way of further Appeal is speedy and efficacious and the Tribunal has got the power to grant any interim relief also as would appear from the relevant provisions of West Bengal Taxation Tribunal Act, 1987 and against which further remedy lies, if so aggrieved, before the Division Bench of this Court. Learned Advocate for the respondents in support of his contention, apart from relying on several relevant provisions of West Bengal Taxation Tribunal Act, 1987 and Bengal Agricultural Income Tax Act, 1944, has also relied on the decision of the Hon'ble Supreme Court in the case of L. Chandrakumar -vs- Union of India reported in (1997) 3 SCC 261 particularly Paragraphs 94, 95 and 100 of the said judgment. Respondents further submit

that the cases relied upon by the petitioner is not applicable to the present case and are distinguishable in view of the facts and circumstances involved in the present case which are different from the facts and circumstances involve in the aforesaid decisions relied upon by the petitioner.

Before dealing with the submission of the parties and coming to the final conclusion in the matter some relevant provisions of law are quoted hereinbelow:

Relevant Sections of the West Bengal Taxation Tribunal Act, 1987:

Section 2 (e) "High Court" means the High Court at Calcutta.

Section 2 (k) "specified State Act" means a State Act specified in the Schedule to this Act.

It is to be noticed that the Bengal Agricultural Income Tax Act, 1944 is a specified in the Schedule to this Act.

Section 2 (l) "State" means the State of West Bengal.

Section 2 (n) "Tribunal" means the West Bengal Taxation Tribunal Constituted under Section 3.

Section 5: *"The Tribunal, save as expressly provided under any specified State Act and subject to the other provisions of this Act, shall, with effect from such date as may be appointed by the State Government by notification in this behalf, exercise jurisdiction, powers and authority in relation to all matters of adjudication or trial of any disputes, complaints or offences with respect to levy, assessment, collection and enforcement of any tax under any specified State Act and of matters connected therewith or incidental thereto: and no Court except the Supreme Court of India shall, with effect from such date, exercise any jurisdiction, powers or authority in the matter of adjudication or trial of any disputes, complaints or offences with respect to the aforesaid matters."*

Section 6: (I) Save as otherwise expressly provided in this Act, the Tribunal shall exercise, with effect from such date as may be specified by the State Government by notification in this behalf, all the jurisdiction, powers and authority exercisable immediately before that day by all Courts including the High Court but excluding the Supreme Court of India for adjudication or trial of disputes or complaints or offences with respect to all matters of levy, assessment, collection and enforcement of any tax under any specified State Act and matters connected therewith or incidental thereto:

Provided that where the matter relates to disposal of question of constitutional validity of any provision of any specified State Act, the matter shall be decided by a Bench constituted of at least three Members of which the Chairman shall be one.

(2) Notwithstanding anything contained elsewhere in this Act, all proceedings triable by any Court or Courts in accordance with the provisions of the Code of Criminal Procedure, 1973, shall continue to be tried by such Court. and the Tribunal shall have no jurisdiction to try such proceedings.

Explanation.—For the purpose of this sub-section, proceedings shall include proceedings under Chapter XXIX and Chapter XXX of the Code of Criminal Procedure, 1973”

Section 7: “If— Reference (a) on application by any aggrieved person or any authority, jurisdiction made in accordance with the provisions of any specified State Act against an order passed by any other authority, the appropriate authority refers to the Tribunal any question of law arising out of such order, or

(b) the application for reference referred to in clause (a) is refused by the appropriate authority under the said specified State Act, and on application to the Tribunal, the case is referred to it in pursuance of its direction, the Tribunal may call for further information and direct the appropriate authority

to make such addition or alteration to the statement made by the said appropriate authority so as to make it sufficient to enable the Tribunal to determine the question raised in the case referred to, and thereafter the Tribunal shall hear such case, decide the question of law raised thereby as expeditiously as possible and deliver its judgment thereon containing the reasons on which such decision is founded.”

Section 8: (1) Subject to the other provisions of this Act, a person aggrieved by any order passed or action taken pertaining to any matter within the jurisdiction of the Tribunal may make an application to it for the redressal of his grievance on any of the grounds referred to in sub-section (3).

Explanation.—For the purposes of this sub-section, "order" means an order made by any authority under any specified State Act and "action" means an action taken by any authority under any of the specified State Acts or by the State Government in the matter of, and in relation to, levy, assessment, collection and enforcement of any tax.

(2) Every application under sub-section (1) shall be made within sixty days from the date of such order passed or action taken, as the case may be, or within such further time as may be allowed by the Tribunal for cause shown to its satisfaction, and shall be made in such form and accompanied by such documents or other evidence and by such fee as may be prescribed:
Extraordinary jurisdiction.

Provided that an application may be entertained within sixty days from the commencement of clause (a) of section 7 where the applicant proves to the satisfaction of the Tribunal that the order or action by which he is aggrieved was passed or taken, as the case may be, within sixty days prior to the commencement of the aforesaid clause (a) of the said section and that he has not moved the High Court against such order or action passed or taken under the specified State Act.

(3) Save as provided expressly in this Act, the Tribunal shall not ordinarily admit an application referred to in sub-section (1) unless it is satisfied that—

(a) the applicant has availed of all remedial measures available to him under the relevant specified State Act; or

(b) the remedial measures available under the provisions of the relevant specified State Act are not adequate and shall cause undue hardship to the applicant; or

(c) the application referred to in sub-section (1) involves a substantial question of law relating to the interpretation of the Constitution of India or the specified State Act or rules framed thereunder or of jurisdiction of any of the authorities under the said specified State Act.

(4) The Tribunal may, if satisfied after such enquiry as it may deem fit that the requirements under this Act and the rules made thereunder are complied with in relation to the application referred to in sub-section (1), admit such application; but where the Tribunal is not so satisfied, it may reject the application summarily giving short reasons therefor.

(5) Where an application under sub-section (1) has been admitted by, or a case has been transferred to, the Tribunal, it shall decide the subject-matter of the application or the case, as the case may be, as expeditiously as possible, and ordinarily within six months from the date of such admission or from the receipt of records from the High Court in respect of cases transferred to the Tribunal.

(6) While deciding the subject-matter or case under sub-section (5) the Tribunal shall issue such direction or pass such order as it may deem fit.

(7) Notwithstanding anything contained in any other provision of this Act or in any other law for the time being in force, no interim order (whether by way of injunction or stay or in any other manner) shall be made on, or in any proceeding relating to an application made under sub-section (1) unless— (a)

copies of such application and of all documents in support of the plea for such interim order are duly furnished seven days in advance to the party against whom such application is made or proposed to be made;

(b) such amount of tax, if any. involved in the matter or such amount of security as may be deemed adequate by the Tribunal to safeguard the interest of State revenue, is paid or furnished by the applicant; and

(c) opportunity of being heard is given to the party against whom such application is made:

Provided that the Tribunal may dispense with the requirement of clause (b) and pass an interim order as an exceptional measure if it is satisfied for reasons to be recorded in writing that it is necessary so to do for preventing any loss being caused to the applicant-which may dislocate, disrupt or lead to closure of his business, or which cannot be adequately compensated in money, but if the application referred to in sub-section (1) is not disposed of within a period of six months from the date when the order was made, the interim order shall, if it is not vacated earlier, stand vacated.

Section 15: “Transfer of the pending cases from High Court- (I) All matters and proceedings including appeals relating to the levy, assessment, collection and enforcement of tax and matters connected therewith or incidental thereto, pending before the High Court on the date of coming into force of sub-section (1) of section 6, shall stand transferred to the Tribunal for disposal in accordance with the provisions of this Act:

Provided that, if any matter or any proceeding has been heard in part or heard but judgment is not delivered on or before the aforesaid date, nothing in this section shall apply to such matter or proceeding.

Explanation.—No application or proceeding shall be deemed to have been heard in part only by reason of any interim order having been passed therein.”

.....

Section 36 of the Bengal Agricultural Income Tax Act, 1944:

“36. Procedure of appeal to the Appellate Tribunal. - (1) Any assessee objecting to an order passed by the Assistant Commissioner under section 32 or section 35 may appeal to the Appellate Tribunal within sixty days of the date on which such order is communicated to him..

(2) The Commissioner may, if he objects to an order passed by the Assistant Commissioner under section 35, direct the Agricultural Income-tax Officer to appeal to the Appellate Tribunal against such order and in such case the Agricultural Income-tax Officer shall make the appeal within sixty days from the date on which the order is communicated to the Commissioner by the Assistant Commissioner.

(3) The Appellate Tribunal may admit an appeal after the expiry of the sixty days referred to in sub-sections (1) and (2) if [it] is satisfied that there was sufficient cause for not presenting it within that period.

(4) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner, and shall, except in the case of an appeal referred to in sub-section (2), be accompanied by a fee of twenty-five rupees.

[[4a]] The functions of the Appellate Tribunal may be discharged by any of the members, sitting either singly or in Benches of two or more members, as may be determined by the President.

[[4b]] If the members of a Bench are divided, the decision shall be the decision of the majority, but if the members are equally divided, they shall state the point or points on which they differ, and the case shall be referred by the President of the Appellate Tribunal for hearing on such point or points to one or more of the members of the Appellate Tribunal; and such point or points shall be decided according to the majority of the members of the Appellate Tribunal who heard the case including those who first heard it:

Provided that if at any time, the Appellate Tribunal consists of only two members, the decision of the Appellate Tribunal shall be that of the President in such case.

(5) The Appellate Tribunal may, after giving both parties to the appeal an opportunity of being heard, pass such orders as it thinks fit, and shall communicate such orders to the assessee and to the Commissioner.

(6) Save as provided in section 63 the orders passed by the Appellate Tribunal on appeal shall be final.

(7) Where an appeal is made to the Appellate Tribunal under this section the costs shall be in the discretion of the said Tribunal.

Relevant paragraphs from the judgment of L. Chandrakumar (supra) are quoted hereinbelow:

Further, after the enactment of West Bengal Taxation Tribunal Act and after the decision of the Constitutional Bench of the Supreme Court in L. Chandrakumar vs Union of India [reported in (1997) 3 SCC 261: AIR 1997 SC 1125], a judgment running for..... pages, wherein the Tribunal is the very remedy and not an alternative remedy. The Supreme Court in paragraphs 94, 95 and 100 of the said judgment very clearly states that the Tribunals would act as the “court of first instance” from which a writ petition may lie but to a Division Bench of the Hon’ble High Court. As a court of first instance the Tribunal completely ousts the jurisdiction of the single Bench of the respective High Courts and the matters pending before the Single Bench of the High Court from the date of the functioning of the Tribunal would stand transferred to the Tribunal. The relevant passages from the said judgment are stated hereinbelow-

“94. Before moving on to other aspects, we may summarise our conclusions on the jurisdictional powers of these Tribunals. The Tribunals are competent to hear matters where the vires of statutory provisions are questioned. However, in discharging this duty, they cannot act as substitutes for the High Courts and the

Supreme Court which have, under our constitutional setup, been specifically entrusted with such an obligation. Their function in this respect is only supplementary and all such decisions of the Tribunals will be subject to scrutiny before a Division Bench of the respective High Courts. The Tribunals will consequently also have the power to test the vires of subordinate legislations and rules. However, this power of the Tribunals will be subject to one important exception. The Tribunals shall not entertain any question regarding the vires of their parent statutes following the settled principle that a Tribunal which is a creature of an Act cannot declare that very Act to be unconstitutional. In such cases alone, the concerned High Court may be approached directly. All other decisions of these Tribunals, rendered in cases that they are specifically empowered to adjudicate upon by virtue of their parent statutes, will also be subject to scrutiny before a Division Bench of their respective High Courts. We may add that the Tribunals will, however, continue to act as the only courts of first instance in respect of the areas of law for which they have been constituted. By this, we mean that it will not be open for litigants to directly approach the High Courts even in cases where they question the vires of statutory legislations (except, as mentioned, where the legislation which creates the particular Tribunal is challenged) by overlooking the jurisdiction of the concerned Tribunal.”

“95. The directions issued by us in respect of making the decisions of Tribunals amenable to scrutiny before a Division Bench of the respective High Courts will, however, come into effect prospectively i.e. will apply to decisions rendered hereafter. To maintain the sanctity of judicial proceedings, we have invoked the doctrine of prospective over-ruling so as not to disturb the procedure in relation to decisions already rendered.”

.....

“100. In view of the reasoning adopted by us, we hold that Clause 2(d) of Article 323A and Clause 3(d) of Article 323B, to the extent they exclude the jurisdiction of the High Courts and the Supreme Court under Articles 226/227 and 32 of the Constitution, are unconstitutional. Section 28 of the Act and the "exclusion of

jurisdiction" clauses in all other legislations enacted under the aegis of Articles 323A and 323B would, to the same extent, be unconstitutional. The jurisdiction conferred upon the High Courts under Articles 226/227 and upon the Supreme Court under Article 32 of the Constitution is part of the inviolable basic structure of our Constitution. While this jurisdiction cannot be ousted, other courts and Tribunals may perform a supplemental role in discharging the powers conferred by Articles 226/227 and 32 of the Constitution. The Tribunals created under Article 323A and Article 323B of the Constitution are possessed of the competence to test the constitutional validity of statutory provisions and rules. All decisions of these Tribunals will, however, be subject to scrutiny before a Division Bench of the High Court within whose jurisdiction the concerned Tribunal falls. The Tribunals will, nevertheless, continue to act like Courts of first instance in respect of the areas of law for which they have been constituted. It will not, therefore, be open for litigants to directly approach the High Courts even in cases where they question the vires of statutory legislations (except where the legislation which creates the particular Tribunal is challenged) by overlooking the jurisdiction of the concerned Tribunal. Section 5(6) of the Act is valid and constitutional and is to be interpreted in the manner we have indicated."

Learned Counsel appearing for the State respondents in support of his contention that in the facts and circumstances of the case, instant Writ Petitions against the impugned order of the first Appellate authority are not maintainable, has relied on an unreported three Judges' Bench decision of the Hon'ble Supreme Court, dated 3rd September, 2021, in the case of The Assistant Commissioner of State Tax and Others –vs- M/s Commercial Steel Limited (Civil Appeal No. 5121 of 2021) particularly on Paragraph 11 and 12 which are quoted as hereunder:

"11. The respondent had a statutory remedy under section 107. Instead of availing of the remedy, the respondent instituted a petition under Article 226. The existence of an alternate remedy is not an absolute bar to the maintainability of a writ petition under Article 226 of the Constitution. But a writ petition can be entertained in exceptional circumstances where there is:

(i) a breach of fundamental rights;

(ii) a violation of the principles of natural justice;

(iii) an excess of jurisdiction; or

(iv) a challenge to the vires of the statute or delegated legislation.

12. In the present case, none of the above exceptions was established. There was, in fact, no violation of the principles of natural justice since a notice was served on the person in charge of the conveyance. In this backdrop, it was not appropriate for the High Court to entertain a writ petition. The assessment of facts would have to be carried out by the appellate authority. As a matter of fact, the High Court has while doing this exercise proceeded on the basis of surmises. However, since we are inclined to relegate the respondent to the pursuit of the alternate statutory remedy under Section 107, this Court makes no observation on the merits of the case of the respondent.”

Considering the submission of the parties, facts as appear from record relevant provisions of law under West Bengal Taxation Tribunal Act, 1987 and Bengal Agricultural Income Tax Act, 1944 and decisions relied upon by the parties and in view of the peculiar facts and circumstances involved in these Writ Petitions, I am not inclined to entertain these Writ Petitions for the following reasons:

(i) It is well settled principle of law that availability of alternative remedy is not absolute bar to maintainability of Writ Petition under Article 226 of the Constitution of India and on this proportion of law petitioners have relied on all the aforesaid three judgments but at the same time law has also been laid down as to what are the exceptional circumstances under which in spite of availability of statutory alternative remedy by way of Appeal, Writ Petition is maintainable and in my considered opinion the instant writ petitions do not fall within the categories of those exceptional facts and circumstances and the cases relied upon by the petitioner are totally different from the present case particularly in the context of and relating to the ambit and scope of the West Bengal Taxation Tribunal Act, 1987, Bengal Agricultural Income Tax Act and further in none of the aforesaid cases of the Hon’ble Supreme Court which have

been relied upon by the petitioner, Constitution Bench decision of the Hon'ble Supreme Court in the case of L. Chandrakumar (supra) was referred or relied by any of the parties in those decisions.

(ii) Other peculiar facts in these Writ Petitions are that at the first instance petitioners have chosen to avail the alternative remedy by challenging the assessment orders in question by way of statutory appeal before the first Appellate authority and after the dismissal of the same and confirmation of the assessment order instead of challenging the impugned orders of the first Appellate authority before the West Bengal Taxation Tribunal which is the second Appellate authority, petitioner intends to challenge the same by these Writ Petitions before the this Court of Single Bench and wants this Single Bench of Writ Court to invoke its constitutional writ jurisdiction under Article 226 of the Constitution of India by interfering with the aforesaid impugned orders of the first Appellate authority by setting aside/quashing its impugned order which would be amounting to indirectly interfering with the assessment orders in question which have been upheld by the first Appellate authority while there is no prayer in the Writ Petitions for interfering or setting aside or quashing of the assessment orders in question as appears from the prayers made in this Writ Petition.

(iii) On perusal of relevant provisions under the West Bengal Taxation Tribunal Act, 1987, I find that as per Section 36 of the Bengal Agricultural Income Tax Act, 1944, West Bengal Taxation Tribunal is the competent forum for adjudicating the nature of issues arise out of the impugned orders of the first Appellate authority and the nature of reliefs petitioner has sought in these Writ Petitions. Under The West Bengal Taxation Tribunal Act, 1987, the Tribunal has got exclusive jurisdiction to entertain the appeal relating to levy of tax in any assessment under the Bengal Agricultural Income Tax Act, 1944 and the impugned order of the first Appellate authority passed under Section 32 or 35 of the said Agricultural Income Tax Act. I further find on perusal of relevant

provisions of The West Bengal Taxation Tribunal Act, 1987, that petitioner has got speedy and efficacious remedy and even can get interim relief also.

(iv) I am not entertaining this Writ Petition by taking into consideration the law laid down by the Hon'ble Supreme Court in the case of L. Chandrakumar (supra) which in my considered opinion is applicable to the facts and circumstances of the instant cases.

(v) I find that the impugned orders passed by the first Appellate authority are neither without jurisdiction nor it is in violation of principle of natural justice nor there is any procedural illegality during the impugned proceeding before the first Appellate authority which petitioner intends to challenge in the instant Writ Petitions on the ground of alleged wrongful interpretation of relevant provisions of law and mode of computation of tax adopted by the assessing officer which according to me cannot be a ground for invoking the constitutional writ jurisdiction of this Court by avoiding the statutory alternative remedy by further Appeal before the West Bengal Taxation Tribunal if petitioner is so aggrieved unless petitioner is able to make out a case that the nature of dispute it wants adjudication by this Writ Court is specifically barred under the statute for the adjudication by the Tribunal or the nature of relief petitioners have asked in this writ proceeding could not be granted by the Tribunal which is the second Appellate authority.

In view of the reasonings and discussion made above, I am not inclined to entertain these Writ Petitions against the impugned orders of the first Appellate authority dated 26th March, 2021 and 18th February, 2021 respectively and both these Writ Petitions being WPA 4305 of 2022 with WPA 4308 of 2022 are accordingly dismissed. No order as to costs.

However, dismissal of these Writ Petitions will not be a bar for the petitioner to challenge the impugned orders of the first Appellate authority before the West Bengal Taxation Tribunal in accordance with law.

Urgent certified photocopy of this judgment, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Md. Nizamuddin, J)