BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **21.09.2022**

CORAM

THE HON'BLE MRS JUSTICE J. NISHA BANU
AND
THE HON'BLE MR JUSTICE N. ANAND VENKATESH

W.A.(MD)No.354 of 2007
and
M.P.(MD)No.1 of 2007

Beach Minerals Sands Company,
Represented by its Manager,
Mr.P.Murugesan ... Appellant/Petitioner

/Vs./

The Deputy Commercial Tax Officer,
Nanguneri,
Tirunelveli District. ... Respondent/Respondent

PRAYER: Appeal filed under Clause 15 of the Letters Patent, praying this Court by setting aside the order passed in W.P(MD)No.3243 of 2005, dated 21.06.2007.

For Appellant : Mr.R.Vadivelu
For Respondent : Mr.D.Sasikumar
Additional Government Pleader

JUDGMENT

J. NISHA BANU,J.
and
N. ANAND VENKATESH,J.

This Writ Appeal has been filed challenging the order passed by the learned Single Judge of this Court dismissing the writ petition and granting liberty to the appellant to file statutory appeal within a period of two weeks from the date of receipt of a copy of the order.

2. Heard Mr.R.Vadivelu, learned counsel appearing for the appellant and Mr.D.Sasikumar, learned Additional Government Pleader appearing for the respondent.

3. The appellant challenged the assessment order of the respondent dated 28.02.2005 and for a consequential direction to the respondent to give credit to the tax paid by the petitioner for the assessment year 2002-03. The learned Single Judge dismissed the writ petition mainly on the ground that there was an efficacious alternative remedy to the appellant in the statute itself to file an appeal and hence, writ petition cannot be maintained, when the appellate remedy is available.

4. The appellant seems to have knocked the doors of this Court only on the ground that if they file an appeal, they have to deposit the entire tax and also the penalty. The learned Single Judge found that just because the appeal will involve financial burden on the appellant, that cannot be a ground to bypass an appellate remedy and to maintain a writ petition. Accordingly, the writ petition was dismissed and the appellant was given liberty to file an appeal within a period of two weeks.

5. In the considered view of this Court, we do not find any ground to interfere with the order passed in the writ petition and there is no merit in this case. This Writ Appeal is dismissed accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

(J.N.B.,J.) **(N.A.V.,J.)**
21.09.2022

Index : Yes/No
Internet : Yes
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J. NISHA BANU,J.

and

N. ANAND VENKATESH,J.

sm

To:

The Deputy Commercial Tax Officer,
Nanguneri,
Tirunelveli District.

Judgment made in
W.A.(MD)No.354 of 2007

Dated
21.09.2022