OD –1

ORDER SHEET

WPO/66/2023
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

J J AUTOMOTIVE PRIVATE LIMITED
VS
UNION OF INDIA AND ORS.

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date: 20th January, 2023.

Appearance:
Mr. Arvind Agarwal, Adv.
Mr. Farhan Ghaffar, Adv.
Ms. Sagufta Saba Yasmin, Adv.
...For the Petitioner
Mr. Prithu Dudhoria, Adv.
...For the Respondents

The Court: Heard both the parties.

This is the second round of litigation. It appears from record that petitioner had filed writ petition on earlier occasion being WPO 2005/2022 against the assessment order under Section 143(3) of the Income Tax Act, 1961 which was dismissed by this Court by order dated 26th April, 2022. Against the aforesaid assessment order, petitioner had filed an appeal before the CIT (Appeal) which has been dismissed by the said appellate authority by order dated 18th August, 2022 by giving certain reasons as appears at page 107 being annexure P-15 to the writ petition. Petitioner challenges the aforesaid impugned order dated 18th August, 2022 passed by the appellate authority being aggrieved by the reasons given by the said appellate authority in dismissing the appeal of the petitioner. Whatever may be the reason when the petitioner has approached the first appellate authority after passing of the order by this Court in its earlier writ petition, if petitioner is aggrieved by such impugned order of the appellate authority remedy is available to it before the second appellate forum i.e. Income Tax Appellate Tribunal. Petitioner itself has approached the first appellate authority by way of filing appeal against the assessment order in question, as such it cannot be said that the CIT (Appeal) who has dismissed the appeal of the petitioner was having inherent lack of jurisdiction or it is without jurisdiction and furthermore when there is an effective and adequate alternative is available before the statutory appellate forum, this Writ Court should not entertain an appealable order.

Accordingly, this writ petition being WPO 66 of 2023 is dismissed.

(MD. NIZAMUDDIN, J.)

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