



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.17937 OF 2024

Zoomcar India Private Limited

...Petitioner

Versus

The State of Maharashtra & Ors.

...Respondents

Mr. Prakash Shah a/w Mr. Mihir Mehta a/w Mr. Suyog Bhawe and
Mr. Yash Prakash i/b. PDS Legal for Petitioner.

Ms. S. D. Vyas, Addl. G. P a/w Mr. G. R. Raghuwanshi, AGP for
Respondent-State.

CORAM : M. S. Sonak &
Jitendra Jain, JJ.

DATED: 9 December 2024

PC.:-

1. Heard learned counsel for the parties.
2. This petition challenges two orders dated 3 July 2024 by the Assistant Commissioner of State Tax. Against both these orders, the Petitioner has the remedy of an appeal.
3. In paragraph 25 of the petition, the Petitioner has admitted that they have such an alternate remedy. Still, it is their case that such a remedy is not efficacious because the orders are passed in violation of natural justice and judgments of the Hon'ble Supreme Court and this Court.
4. At the time of the arguments, however, Mr Shah pointed out that tax was demanded on items for which the tax had already been paid. He submitted that these details were pointed out to the Assistant Commissioner of State Tax, but this aspect has not been considered at all on an incorrect interpretation. Accordingly, Mr. Shah submits that

this is not a case where the Petitioner should be relegated to the alternate remedy.

5. Ms. Vyas defended the impugned orders based on the reasoning reflected therein. She disputes the contentions raised and submits that there is no reason why the Petitioner should not be relegated to the alternate statutory remedy provided by the law.

6. We have considered the rival contentions after perusing the record.

7. In the facts of the present case, we see no substantial ground to deviate from the practice of exhaustion of alternate remedies. Simply alleging a violation of natural justice or claiming that judgments of the Supreme Court or High Courts are not considered is insufficient. These contentions must be made good. By making such allegations, the parties must not try to argue the matter on merits and take chances.

8. *Prima facie*, we have not found any apparent violations of natural justice or contradictions with clearly decided precedents on the subject. The contentions about the Petitioner being required to pay tax over items for which tax was already paid would involve investigating factual aspects which the Appellate Authority could best undertake. If the point was so plain, at least an application for rectification should have been filed within the prescribed period.

9. Recently, in the case of ***Oberoi Constructions Ltd. Vs. The Union of India & Ors.*** in Writ Petition (L) No.33260 of 2023, we have surveyed the decisions on the principle of exhaustion of alternate remedies. Following our reasoning in the judgment, we decline to entertain this petition but grant the Petitioner liberty to appeal the impugned orders before the Appellate Authority.

10. For all the above reasons, we decline to entertain this petition but grant the Petitioner liberty to challenge the impugned orders by instituting appeals before the Appellate Authority. If appeals are instituted within four weeks from today, the same should be considered and disposed of on merits without adverting to the limitation issue. This is because this petition was filed within the limitation period prescribed for instituting appeals, and the Petitioner was bona fide in pursuing this petition.

11. Incidentally, in this case, the Petitioner did not apply for any rectification within the prescribed period. This order will still not preclude the Petitioner from filing the rectification application if the same is now maintainable and reasonable grounds exist for filing the same.

12. Therefore, we dispose of this petition by keeping all parties' contentions open and by relegating the Petitioner to the remedy of appeal. There shall be no order for costs.

(Jitendra S. Jain, J.)

(M. S. Sonak, J.)