Pradnya

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 14322 OF 2024
IN
WRIT PETITION NO. 4071 OF 2024

Prestige Alcobev Pvt. Ltd. …Applicant

*Versus*

Union of India and ors. …Respondents

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**Mr Subhash Jha** (through VC), a/w Mr Siddharth Jha, Mr Deepesh Shahani i/b. Law Global Advocates, for the Applicant.

**Mr J. B. Mishra**, a/w Ms Mamta Omle, Mr Rupesh Dubey, for the Respondents.

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**CORAM** **M.S. Sonak &**
**Jitendra Jain, JJ.**
**DATED:** **18 November 2024**

**PC:-**

**1.** Heard learned counsel for the parties.

**2.** By this Interim Application, the Petitioner seeks the following relief in Writ Petition No.4071 of 2024, which was already dismissed as withdrawn by our order dated 6 August 2024:-

> a) that this Hon'ble Court may be pleased to grant leave to the Applicant to file a fresh petition seeking to challenge the issue raised in Writ Petition

No.4071 of 2024 in view of subsequent developments and by furnishing further and additional documents which were not annexed in the earlier petition and more particularly the show cause notice dated 20th December, 2023 due to sheer inadvertence.

**3.** At the outset, we are unsure whether the above relief can be sought in a Petition, which has already been dismissed after recording the Petitioner's counsel's statement that the Petitioner will file an appeal against the order in the original dated 11 March 2024. However, assuming that such an Interim Application could be filed in a dismissed Petition, we are satisfied that no case is made out for the grant of such leave.

**4.** Admittedly, against the order in original dated 11 March 2024, the Petitioner has an alternate and efficacious remedy of an appeal. Mr Jha, however, submits that the matter raises an important question of law, and the decision on this question is necessary one way or the other because otherwise, the entire industry is unclear and suffering. He also referred to the decisions cited in paragraph 5 of this Interim Application to submit that a fresh Petition would be maintainable despite the availability of an alternate remedy.

**5.** The above reasons do not constitute any reasonable grounds to grant the relief prayed for or, for that matter, even modify our order dated 6 August 2024 and permit the Petitioner to file a fresh Petition to challenge the order dated 11 March 2024 instead of appealing the said order before the Appellate Authority, as was stated and recorded in our order dated 6 August 2024.

6. Since the Petitioner has an alternate remedy, the same cannot be bypassed by citing flimsy reasons. The circumstance that an important question of law is allegedly involved or that the industry was allegedly suffering are not good enough grounds to depart from the usual rule of relegating the parties to the alternate remedies or bypassing the rule or practice of exhaustion of alternate remedies.

7. This Court, in its judgment and order dated 11 November 2024 in Writ Petition (L) No.33260 of 2023 and connected matters and its judgment and order dated 13 November 2024 in Civil Writ Petition No.12695 of 2024, has considered the issue of parties attempting to bypass alternate remedies by citing flimsy reasons. The reasoning in the said decisions will apply to the present matter, and based on that, no leave as prayed for can be granted.

8. Mr Mishra, learned counsel for the Respondents, contended that this Petition was about to be dismissed, as is evident from paragraph 2 of our order dated 6 August 2024. At that stage, the learned counsel for the Petitioner sought leave to withdraw the Petition, stating that the Petitioner would file an appeal against the original order dated 11 March 2024. Even if we discount his argument, for the reasons indicated above, we are satisfied that no case has been made to grant leave as prayed for in this Application.

9. Therefore, this Interim Application is dismissed. However, we clarify that the Applicant/Original Petitioner will have the liberty to challenge the order in original dated 11 March 2024 by instituting an appeal in accordance with law. All contentions on merits are kept open.

**10.** The Interim Application is disposed of without any cost order.

**(Jitendra Jain, J)** **(M.S. Sonak, J)**

Signed by: Pradnya Bhogale
Designation: PA To Honourable Judge
Date: 19/11/2024 10:44:25