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Date: 2025.03.19 15:19:13 +0530

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 240 OF 2025

Sawai Fragrances …Petitioner

Versus

Union of India …Respondent

Mr Mahaveer Jain a/w Mr Anand Kanse, for the Petitioner.

Mr Suresh Kumar, for the Respondent.

CORAM M.S. Sonak &
Jitendra Jain, JJ.
DATED: 18 March 2025

PC:-

1. Heard learned counsel for the parties.

2. The petitioner challenges the assessment order dated 20 April 2023 by instituting this petition on 6 January 2025. The learned counsel for the petitioner admits that the petitioner has an alternate and efficacious remedy. He further acknowledged that the petitioner has already availed of this remedy by filing an appeal against the impugned assessment order dated 20 April 2023 within the prescribed limitation period. He admits that this appeal is pending. Still, during the pendency of such an appeal, it is contended that since the entire exercise of the respondents was allegedly wholly without jurisdiction, this Court must entertain this petition.

3. Reliance is sought to be placed on orders of the Co-

ordinate Benches dated 12 August 2024 in Writ Petition No.10815 of 2024 and on 7 October 2024 in Writ Petition (L) No.25413 of 2024 to submit that this Court should at least stay the demands pending the appeal before the Appellate Authority.

4. Regarding this alternate prayer, there is no explanation for why no stay was applied before the AO as per the routine procedure in such matters. The learned counsel for the petitioner now accepts that the petitioner has also applied for the stay of the demands before the assessing officer.

5. Thus, this is a classic case where the petitioner is pursuing parallel remedies at the same time. The position in the orders relied upon by the learned counsel for the petitioner was entirely different. This petition is misconceived and amounts to taking chances with the judicial process. It virtually amounts to treating the extraordinary remedy as an alternate remedy to the appellate remedy provided in the statute. This cannot be encouraged.

6. To deter the institution of such petitions where the petitioners simply wish to take a chance regardless of the pressure on this Court's docket, exemplary costs are required to be imposed on the petitioner while dismissing this petition. This is the case where the petitioner not only has an alternate and efficacious remedy but has already invoked it. Even the application for stay is pending.

7. In Paragraph 11 of this petition, the petitioner has merely stated that an alternate remedy is available against the impugned assessment order; however, the same should not

operate as a bar to entertaining this petition, since according to the petitioner, the impugned order is without jurisdiction.

8. The crucial fact that an appeal was already filed as of the date of the institution of this petition is suppressed in paragraph 11. The learned counsel, however, refers to paragraph 9, in which it is indeed stated that *'the petitioner except appeal against the impugned order has not filed any other efficacious petition .....'*

9. The averment in paragraph 9 is so couched as not to attract attention. Paragraph 11, which deals with alternate remedy, contains no clear statement of the appeal being filed, the date of filing, or the fact that a stay was also applied for. Regarding the stay application, there is complete suppression. All these facts emerged only after this Court posed queries.

10. In paragraph 10, the petitioner stated that it had not withheld any material information from this Court. The fact that a stay was already applied before the assessing officer constituted 'material information'. This has been deliberately suppressed.

11. The delay in instituting this petition is also not explained. This petition is filed to take chances with the judicial process. Due to such petitions, the judicial time that could otherwise be utilised to deal with genuine and old matters is severely curtailed.

12. For all the above reasons, we dismiss this petition with a cost of Rupees One Lakh. Of this, Rupees Fifty Thousand should be paid to "Tata Memorial Hospital, Parel," and the balance of Rupees Fifty Thousand must be paid to the "High

Court Employees Medical Welfare Fund at Mumbai." The cost should be paid within four weeks from today, and the necessary receipt should be filed in the registry.

13. The account details are as follows:-

Account Name	: The High Court Employees Medical Welfare Fund at Mumbai
Account Number	: 000120110001337
Bank Name	: Bank of India
Branch Name	: Mumbai Main
IFSC Code	: BKID0000001

Account Name	: Tata Memorial Hospital
Account Number	: 1002449683
Bank Name	: Central Bank of India
Branch Name	: Dr.Ernest Borges Road, Parel, Mumbai
IFSC Code	: CBIN0284241

14. A copy of this order must be forwarded to the Maharashtra Legal Services Authority. The petitioner must furnish the receipt and the compliance report to the Maharashtra Legal Services Authority by 24 April 2025 at the latest.

15. Suppose the costs are unpaid and the necessary compliance report is not filed. In that case, the Maharashtra Legal Services Authority will apply to this Court for a suitable order to recover such cost from the petitioner.

16. This petition is dismissed with cost.

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