Sayali

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

WRIT PETITION NO. 338 OF 2025

Aadi Properties LLP …Petitioner

Versus

Union of India and Others …Respondents

Mr Mahaveer Jain with Mr Shobhit Mishra, for Petitioner.
Mr Suresh Kumar, for Respondents.

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

DATED: 25 February 2025

PC:-

1. Heard learned Counsel for the parties.

2. Mr Shobhit Mishra, learned Counsel for the Petitioner, fairly admitted that the Petitioner has already instituted an Appeal against the imputed assessment order so that the bar of limitation should not apply. However, relying on **Whirlpool Corporation Vs. Registrar of Trade Mark, Mumbai**[1], he submitted that availing of the alternate remedy should not be considered as a bar to the entertainment of the present Petition because, according to him, the impugned notice and the impugned order based thereon is without jurisdiction and contrary to the law laid down by this Court in the case of

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1 AIR 1999 SC 22

Hexaware Technologies Limited Vs. Assistant Commissioner of Income Tax and 4 Ors[2] and **Rajan Pradeepkumar Dubey Vs. Income Tax Officer, Ward 3(2) Kalyan and Others**[3].

3. Mr Suresh Kumar learned Counsel for the Revenue submitted that the decision in **Hexaware Technologies** (supra) may not apply to the facts of the present case. He submitted that since the Petitioner has already availed the remedy of Appeal, this Court should not entertain the present Petition.

4. Since the petitioner has already availed of the alternate remedy, there is no good reason to entertain this petition. All contentions, including those raised in this petition, can always be kept open for consideration by the appellate authority.

5. In the case of **Shantilal Prabhudas and Co. Vs. The Income Tax Officer, Ward-17(3)(1), Mumbai and Others**[4] decided by the Co-ordinate Bench on 7 August 2024, this Court, in similar circumstances, relegated the Petitioner to pursue the already filed appeal. However, the Revenue was restrained from enforcing the impugned assessment order until the disposal of the Appeal.

6. Therefore, by following the above course of action, we decline to entertain this Petition and leave it to the Petitioner

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[2] (2024) 464 ITR 43

[3] Writ Petition No.11166 of 2024 dated 12 August 2024

[4] Writ Petition (L) No.25413 of 2024

to pursue the Appeal already filed. We further grant the Petitioner liberty to raise all contentions, including those raised in this Petition regarding the impugned notice and the impugned assessment order. We clarify that all parties' contentions are left open to be decided by the Appellate Authority.

7. However, we direct that until the Appellate Authority disposes of the Petitioner's Appeal, no coercive action should be taken to effect recoveries based upon the impugned assessment order.

8. This Petition is disposed of in above terms without any costs order.

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