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

WRIT PETITION NO. 2992 OF 2025
WITH
INTERIM APPLICATION NO. 3862 OF 2025

Jaguar Land Rover India Ltd …Petitioner

Versus

Joint Commissioner of Sales Tax and Others …Respondents

Mr R. A. Dada, Senior Advocate with Mr. Zubair Dada with Mr. H. N. Vakil, Mr. Samkit Shah and Mr. Farhad Vakil i/b Mulla and Mulla and Craigie Blunt and Caroe, for Petitioner.

Mr. Amar Mishra, AGP for Respondent Nos. 1 to 4 - State.

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

DATED: 05 August 2025

ORAL ORDER:- *(Per M. S. Sonak, J.)*

1. Heard learned Counsel for the parties.

2. This Petition challenges two orders dated 25 March 2025 (Exhibits I and J) made by the Jt. Commissioner of State Tax [Appeals] dismissing the challenges to the orders made by the adjudicating authority.

3. Admittedly, both these orders are appealable. In paragraph 37 of the Petition, the Petitioners, in the context of exhaustion of alternate remedies, have pleaded as follows: -

> "37. The Petitioners submit that they have approached this Hon'ble Court against the arbitrary and extortionate action of the Respondents and for the reasons set out above. Accordingly, the Petitioner does not have any alternate adequate or equally efficacious remedy other than filing this Writ Petition before this Hon'ble Court."

4. Besides, Mr. Dada, the learned Senior Advocate for the Petitioner, referred to the averments in paragraph Nos. 7 and 33 of the Petition in which it is pleaded that the Appellate Authority referred to the decisions of various High Courts and the decision of the Tribunal in the case of **M/s JNK India Private Limited Vs. The State of Maharashtra**[1]**,** seeking to interpret orders of the Hon'ble Supreme Court. Therefore, an authoritative interpretation from this Court is required in the matter. In paragraph 33, it is pleaded that the impugned orders have not taken into account the interpretation given by the Hon'ble Supreme Court in the case of **Tata Iron and Steel Co., Limited, Bombay Vs. S.R. Sarkar**[2] and further, the Appellate Authority has failed to accept the order of the Tribunal in the case of **M/s. Ajay Trading Company Vs. State of Maharashtra**[3]**.**

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1 VAT Second Appeal No. 587 of 2017

2 (1960) 11 STC 655

3 2012 SCC Online Mah STT 412

5. Having considered the averments in the Petition, we do not believe they establish any exceptional circumstances justifying deviation from the usual practice of not entertaining Writ Petitions, especially in fiscal matters, for the non-exhaustion of alternative remedies. The averments in the petition on this aspect urge the standard grounds that can typically be raised and examined by the appellate authorities through a statutorily prescribed appeal. Relying on such averments, not to mention the misleading assertion that the petitioner has no alternative remedy, no case is made out to depart from the practice of not entertaining writ petitions due to non-exhaustion of statutorily provided alternative remedies.

6. Mr. Dada submitted that this was a case where the Jt. Commissioner [Appeals]-JCA was bound by the Tribunal's decision in **Ajay Trading** (supra). He further pointed out that the impugned order failed to appreciate that the decision of the Tribunal in **M/s JNK India Private Limited** (supra) was clearly distinguishable and that this distinction was not properly appreciated .

7. Finally, Mr. Dada pointed out that the JCA's order was completely unreasoned and therefore, even if the Petitioner was relegated to the remedy of an Appeal, the Appellate Tribunal would not be able to comprehend the reasoning in the impugned order because such an order contained no reasoning at all. He pointed out that the order imposing penalty was nothing but a cut-and-paste of the order disposing of the show-cause notice, and this is also a good ground why the Petitioner should not be relegated to avail of the alternate remedy.

8. At the outset, upon examining the impugned order, we cannot accept the argument that it is unreasoned. Whether the reasoning is correct or not is a matter that will need to be considered in detail by the Appellate Authority. This is also not a case where the JCA has ignored or refused to be bound by the decision in **Ajay Trading** (supra). The JCA has taken into account the decisions in **Ajay Trading** (supra) and **M/s JNK India Private Limited** (supra)**, both of which are** decisions of the Tribunal, and has concluded that the decision in **M/s JNK India Private Limited** (supra) applies to the facts **of** the case before it rather than the decision in **Ajay Trading** (supra).

9. Again, we do not say at this stage whether the reasoning of the JCA or the distinction made by it is correct or not. Such a determination would require a detailed investigation into the facts in this case, and perhaps the factual position involved in the tribunal's two decisions stressed by Mr Dada. This is an exercise which can best be undertaken by the Appellate Authority. In any event, based upon such grounds, no exceptional case is made out to deviate from the self-imposed restriction of not entertaining writ petitions unless the petitioners exhaust the alternative statutory remedies of appeal, etc. The grounds that are now raised in this Petition are the routine grounds raised in appeals, which the Appellate Authorities are quite competent to decide.

10. The question in such matters is not about the maintainability of the Petition as was explained by the Hon'ble Supreme Court in the case of **Godrej Sara Lee Ltd vs. Excise and Taxation Officer-cum-Assessing Authority and Others**[4]**,** but the question is really about entertainability. In this decision, which was relied upon by Mr. Dada, the Hon'ble Supreme Court has held that a Petitioner, who wishes to bypass the statutory alternate remedies provided, must make *an exceptional case* for the entertainment of the Petition (See Paragraph 4).

11. In *Godrej Sara Lee Ltd. (supra),* the Hon'ble Supreme Court clarified that it was mainly concerned with whether the Revisional Authority wrongly assumed jurisdiction despite the unchallenged order of the Tribunal dated 21st November 2001, rather than with the merits of the Tribunal's or the Revisional Authority's decision. This indicates that, even after the Tribunal had determined that the Revisional Authority was not justified in assuming jurisdiction, the Revisional Authority, by disregarding the final and binding order, still proceeded to assume jurisdiction and decide the matter. Such facts are not applicable in the present case. In the present case, the decisions in **Ajay Trading** (supra) and, for that matter, **M/s JNK India Private Limited** (supra), were cited as precedents.

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[4] (2023) SCC Online SC 95

12. There can be no doubt that even the orders of the Tribunal would serve as binding precedents insofar as the Adjudicating Authority or the JCA is concerned. However, this is not a case where the JCA has simply disregarded the orders of the Tribunal. The JCA has carried out an exercise to determine which of the two orders would govern the facts before it and has chosen to follow the Tribunal's decision in **M/s JNK India Private Limited** (supra). It would not be appropriate for this Court, at this stage, to delve into all these factual issues. These are points and arguments that are routinely raised before the Appellate Authorities, specifically empowered to decide such matters. This is certainly not an exceptional case where the practice of exhausting alternative remedies should be sidestepped or disregarded.

13. In this case, we note that from the original assessment order, it is not as if the Petitioner directly approached this Court alleging any lack of jurisdiction or failure on the part of the Assessing Authority to follow the decision in **Ajay Trading** (supra). The Petitioner did appeal the decision of the Adjudicating Authority, and it is only after the Appeal failed that an attempt was made to directly approach this Court, bypassing the alternative and efficacious remedy provided by law in such matters. Even the averments in the Petition are rather misleading when, in paragraph 37 of the Petition, the Petitioner states that they do not have any alternate, adequate or efficacious remedy other than the filing of this Writ Petition.

14. Normally, in such matters, there should be clear averments about the availability of statutory remedies. After that, the Petitioner may plead and explain the exceptional circumstances under which the Writ Petition should be entertained despite the availability of such statutory and alternative remedies.

15. This Court has considered several precedents of the Hon'ble Supreme Court in the context of entertaining Petitions without exhausting statutory and alternative remedies. By relying on the reasoning in **Oberoi Constructions Ltd Vs. Union of India and Others**[5] and the precedents referred to therein, we see no good grounds to entertain this Petition. To a similar effect are the decisions of the Hon'ble **Supreme Court** in the cases of **State of Maharashtra and Others Vs. Greatship (India) Limited**[6] **and Bank of Baroda Vs. Farooq Ali Khan and Others**[7] dealing with the issue of exhaustion of alternate remedies. These decisions hold that where a special procedure is provided, normally, without any exceptional circumstances being made out, the party should not be allowed to deviate from this special procedure or the statutorily provided remedies. As noted earlier, based on the grounds urged before us, no exceptional circumstances have

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[5] 2024 SCC OnLine Bom 3508

[6] (2022) 17 SCC 332

[7] 2025 SCC OnLine SC 374

been demonstrated for deviating from the normal practice of exhaustion of alternate remedies.

16. Besides, before we conclude, we note that Section 26 of the Maharashtra Value Added Tax Act, 2002, which deals with appeals, among others, before the Tribunal, vests the Tribunal with substantial powers. The issue of pre-deposit is left to the discretion of the Tribunal, and there does not appear to be any statutorily prescribed minimum.

17. Mr. Dada submitted that 46.3 % of the duty has already been paid. If this is so, we are sure that this is a matter that would be considered by the Tribunal, should the Petitioners file an Appeal against the impugned order. The Tribunal is conferred with powers to set aside the assessment, refer the case back to the Assessing Authority for making a fresh assessment in accordance with the directions given by it and after making such further inquiry as may be necessary. Thus, all the grounds now urged in this Petition can also be urged before the Tribunal, which would be in a better position to appreciate the factual nuances not only of the present case but also those in the decisions of **Ajay Trading** (Supra) and **M/s JNK India Private Ltd** (Supra) on which the rival parties rely. The remedy, therefore, is not only alternative but also efficacious.

18. Thus, for all the above reasons, we decline to entertain this Petition but leave it open to the Petitioner to appeal the impugned order in accordance with law. If the Appeal is instituted within four weeks from today, the Appellate Authority shall decide the Appeal on its own merits and in accordance with law without adverting to the issue of limitation. This is because this Petition was instituted on 11 June 2025 to challenge the impugned orders made on 25 March 2025. The Petitioner was *bona fide* pursuing this Petition.

19. Besides, if the Petitioner applies to the Tribunal for early disposal of the Appeal, the Tribunal should consider the same. Mr. Dada submitted that this was a recurring issue and the same would affect the assessment for the last four assessment years. We clarify that all contentions of all parties on merits are explicitly kept open, and none of the observations in this order is intended to be or should be construed as affecting the merits of the rival contentions.

20. The Petition is disposed of with liberty in the above terms. No costs.

21. The Pending Interim Application will not survive, and the same is disposed of.

22. All concerned are to act on an authenticated copy of this order.

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