

(2012) 10 MAD CK 0020
In the Madras High Court
Case No : Writ Petition (MD) No. 8871 of 2006

S.A.C. Hameed

APPELLANT

Vs

Commissioner, Thoothukudi City Municipal Corporation

RESPONDENT

Date of Decision : 12-10-2012

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Recovery of Debts Due to Banks and Financial Institutions Act, 1993 — Section 20
Tamil Nadu District Municipalities Act, 1920 — Section 13(4), 14, 17, 17(1), 18

Citation : (2013) 2 MLJ 371

Hon'ble Judges : S. Manikumar, J

Bench : Single Bench

Advocate : K. Srinivasan for M.P. Senthil, for the Appellant; S. Saji Bino, for the Respondent

Final Decision : Dismissed

Judgement

S. Manikumar, J.—Challenge in this writ petition is to an order dated 18.9.2006 passed by the Commissioner, Tuticorin City Municipal

Corporation, Tuticorin, addressed to the Manager, Canara Bank Branch, Tuticorin, stating that as the property tax had not been remitted,

appropriate action would be taken for attaching the immovable properties, besides, water connection would be disconnected. In the notice, the

Commissioner has further directed the Manager, Canara Bank Tuticorin, to submit receipts if any, to prove as to whether, out of 6,15,886/-

property tax representing for the period between 1997-1998 and 2006-2007, has been paid. Aggrieved over the same, Mr. S.A.C. Hameed has

filed the present writ petition. According to him, the property at Door No. 19, Chidambaranagar, 2nd Street, Thoothukudi, originally belonged to

Smt. Thirase Michier and that the premises was leased out to Canara Bank,

Tuticorin. Subsequently, the petitioner and his wife K. Kanarunisha became entitled to the property, by virtue of a registered sale deed, dated 4.1.1995. The tenant bank was in possession and enjoyment of the property.

2. According to him, the property was assessed to tax on the basis of fair rent at Rs. 3,386/- per half year and that the same was revised in the year 1997-98. During the second half year 1998-1999, the petitioner was informed that the property tax has been enhanced to Rs. 11,729/- per half year. No prior notice was issued to the petitioner or his wife. However, he remitted the amount and also informed the municipal authorities that the enhancement of property tax was very high and requested the authorities to reduce the same, but, without passing any orders, a notice dated 8.12.2004 was issued demanding a sum of Rs. 3,36,003/- being property tax payable for the year 2000-2001 to 2004-2005 for the first half year, in respect of assessment No. 500722.

3. Being aggrieved by the same, a legal notice dated 19.12.2004 was issued to the Corporation on behalf of the petitioner's wife stating that enhanced tax from Rs. 11,727/- to Rs. 37,337/- for each half year was astronomically high. Subsequently, the petitioner has remitted a sum of Rs. 1,05,498/- by way of demand draft, but no receipt was given. When the matter stood thus, the respondent without any further notice, once again has issued a demand notice dated 18.9.2006, to the Branch Manager, Canara Bank, Tuticorin, the occupant/tenant demanding a sum of Rs. 6,15,886/- as the property tax and arrears, payable for the period from 1997-98 to 2006-2007.

4. According to the petitioner, it is not known as to how such a notice could be issued to the occupier, when the corporation knows the residential address of the petitioner. In the said notice dated 18.9.2006, the Corporation has directed the occupier that the abovesaid amount has to be remitted on or before 24.9.2006, failing which, distraint proceedings would be initiated and water connection would be disconnected.

5. On the above pleadings and inviting the attention of this Court to Schedule 4 to Taxation and Finance Rules and in particular 9-A(1) of the Rules

Mr. K. Srinivasan, Learned senior counsel submitted that whenever there is an enhancement in the assessment of property tax payable for the half

year commencing from 1.10.1987, the owner or occupier of the property concerned, has to be given a special notice about the enhancement of

the property tax payable by such owner/occupier and in the case on hand, no such notice has been issued, either to the owner or the occupier.

6. He further submitted that before issuing a notice of demand, a proper assessment of property ought to have been made and that the owner or

the occupier, as the case may be, has to be put on notice, as to how and what manner tax has been revised and in such circumstances, had there

been a special notice, the owner or occupier, as the case would have submitted his/her objections to the enhancement of property tax. Bringing it

to the notice of this Court, a decision in Prashanth Textiles Limited Vs. The Executive Officer, Veerakeralam Town Panchayat, , Learned senior

counsel for the petitioner submitted that when the basis on which the property tax has been arrived at, has not been stated in the notice, demanding

tax and when no details of any Government guidelines have been referred to in the notice, this Court in the abovesaid decision, has set aside, even

the special notice itself. According to the Learned senior counsel, the petitioner stands on a better footing, for the reason that, in the case on hand,

the petitioner was not even served with the special notice contemplated under the rules.

7. Placing reliance on a decision of this Court in K.R. Santharam Vs. The Commissioner, Madurai City Municipal Corporation, Learned senior

counsel further submitted that in the notice dated 18.9.2006, impugned in the present writ petition, a demand for arrears of tax has been made,

even for a period exceeding six years, prior to the date of issuance of notice. According to him, as per the abovesaid decision, the authorities are

duty bound to mention the reasons for claiming property tax and that no recovery can be made, after a lapse of six years.

8. Inviting the attention of this Court to a decision in G.P. Venkatesa Mudaliar v. The Commissioner, Corporation of Chennai, 2008 4 LW 448,

Learned senior counsel further submitted that in the above reported case, when issuance of notice demanding of arrears of property tax, pending

consideration of the objections, has been set aside by this Court, holding that there was violation of principles of natural justice. While doing so,

this Court also took note of the fact that there was no opportunity of hearing given to the owner of the land.

9. Inviting the attention of this Court to the decision of this Court in V.S. Badhurunnisha Begam v. The Government of Tamil Nadu and Others,

2008 Writ L.R. 709, Learned senior counsel for the petitioner submitted that though the Commissioner of Tuticorin Corporation, is empowered to

enhance property tax, as enhancement involves civil consequences to the assessee, it is obligatory on the part of the respondent to provide an

opportunity of hearing before finalising assessment. On the basis of the above referred judgments, Learned senior counsel submitted that the

respondent has not only issued any prior notice under Rule 9-A(1) of Schedule 4 of the Tamil Nadu District Municipalities Act, 1920, before

revising/enhancing the property tax, but the said authority has failed to provide a reasonable opportunity of being heard, and taking law into his

own hands, enhanced, the property tax, and threatened the tenant bank of disconnecting water supply and distraint proceedings. According to the

Learned senior counsel, the impugned demand notice, threat of distraint proceedings and disruption of water supply are nothing, but a coercive

action to make the land owner to pay the property tax and to cover up the illegalities committed by the Corporation, in the matter of

revising/enhancing the tax and it is an attempt to realise the tax without providing any reasonable opportunity.

10. Per contra, though no counter affidavit has been filed, by Tuticorin Corporation, Mr. S. Saji Binu, learned counsel for the Corporation made a

preliminary objections stating that the writ petitioner is not an assessee and even though he is the husband of the assessee, he has no locus standi to

challenge the demand for payment of property tax. In this context, he invited the attention of this Court to the notice issued by the Corporation to

Smt. Kanarunisha, wife of S.A.C. Hameed, demanding a sum of Rs. 3,36,033/-, being the arrears of tax for the period between 2000-2001 to

2004-2005 first half year, in respect of Assessment No. 500722. He also submitted that notice has been issued to the occupier namely, the tenant

Canara Bank, Chidambaranagar Branch, Tuticorin District. According to him, as per the statutory provisions, the owner or the occupier, as the

case may be, is liable to pay the property tax and that therefore, the notice sent to the tenant namely, Bank, for payment of arrears of tax cannot be

said to be illegal. He therefore submitted that the writ petition instituted by Mr. S.A.C. Hameed, husband of the assessee is not maintainable, as he

cannot be said to be an aggrieved person.

11. Placing reliance on the decision of this Court in a common order in W.P. (MD) Nos. 8557 of 2011 etc batch, dated 14.8.2012, learned

counsel for the corporation further submitted that in matters relating to revenue, the remedy provided for under the Taxation and Finance Rules, is

to file an appeal before the committee and without taking recourse to the same, it is not open even to an assessee, to file a writ petition. He

therefore, prayed that the present writ petition should be dismissed, on the ground of maintainability, both on the grounds of locus and in terms of

common order made in W.P. Nos. 8557 of 2011 etc., batch, dated 14.8.2012.

12. Learned counsel for the Corporation further submitted that without challenging to the enhancement of tax in the manner known to law, it is not

open even to the assessee to challenge the demand for payment of arrears of tax. For the abovesaid reasons, he prayed for the dismissal of the

writ petition.

13. By way of reply, Mr. K. Srinivasan, Learned senior counsel submitted that the contention made in paragraph 1 of the supporting affidavit that

both the petitioner, as well as his wife became entitled to the property, by way of a registered sale deed dated 4.1.1995, has not been disputed by

filing any counter affidavit and that therefore, it is not open to the respondent corporation to contend that the petitioner is not an aggrieved person,

to challenge the impugned demand notice. According to him, when the procedure contemplated for enhancement of tax has not been followed and

when the respondent Corporation has failed to serve the periodical assessment orders, so as to enable the petitioner to challenge the same, in the

manner known to law, no demand for payment of tax, can be made particularly, by threatening the tenant and for the reasons stated in the

foregoing paragraphs, prayed to reject the contention of the Corporation.

Heard the learned counsel appearing for the parties and perused the materials available on record.

14. Before advertng to the rival contentions on the merits of this case, this Court deems it fit to address the preliminary issue, as to whether the

petitioner can be said to be an aggrieved person to challenge the demand notice dated 18.9.2006, issued to the Canara Bank Branch,

Chidambaranagar, Tuticorin District demanding payment of Rs. 6,15,886/- being

the alleged arrears of property tax from 1997-1998 to 2006-

2007 in respect of the property, at Door No. 19, Chidambaranagar, 2nd Street, Thoothukudi.

15. Perusal of the impugned notice shows that the name of the owner of the property, mentioned in the notice is K. Kanarunisha, wife of Mr.

S.A.C. Hameed. Though the Learned senior counsel has contended that the petitioner is also entitled to the property, by virtue of a sale deed,

dated 4.1.1995, as rightly pointed by the learned counsel for the respondent Corporation, the said sale deed, dated 4.1.1995 has not been

produced before this Court, to prove that the petitioner is also a owner of the property. Even taking it for granted that the petitioner is a purchaser

of the property, along with his wife, the assessment stands only in the name of Ms. K. Kanarunisha. Per contra, in the property tax receipts

enclosed at page No. 17 of the typed set of papers, for the period 1999-2000, first and second half years, the name of the assessee has been

shown as Ms. K. Kanarunisha, wife of Mr. S.A.C. Hameed. The same is the position, in respect of tax receipts, for the period 1997-98, 1998-

1999, first and second half tax receipts. Even as per the documents enclosed in the typed set of papers, all the tax receipts have been issued only

in the name of Ms. K. Kanarunisha and not in the name of the petitioner Mr. S.A.C. Hameed. Even in the demand notice issued under Rules 30 to

34 of the Schedule IV to the Tamil Nadu District Municipalities Act, 1920, the name of the assessee has been shown only as Ms. K. Kanarunisha,

wife of Mr. S.A.C. Hameed. In the notice, enclosed at page 21 of the typed set of papers, demand has been made for payment of tax of Rs.

3,36,033/- for the period between 2000-2001 and 2004-2005 first half year, for the assessment No. 500722.

16. Perusal of the Lawyer's notice, dated 19.12.2004 makes it abundantly clear that the said notice has been sent only on behalf of Ms. K.

Kanarunisha, wife of Mr. S.A.C. Hameed, wherein, it is stated that Door No. 19 is owned by her and rented to Canara Bank, Chidambaranagar

Branch, Tuticorin. In the said notice, she has claimed to be the owner of the property, and since she was in out of station, she did not receive any

demand notice, at any point of time. She has requested for inspection of the property and make a reference to the taxing committee, if required.

The Lawyer's notice issued on behalf of Ms. K. Kanarunisha, has been issued on 19.12.2004, much later than the sale deed dated 4.1.1995, said

to have been executed in favour of the petitioner and his wife Ms. K. Kanarunisha. Had the petitioner been an owner of the property, for which, a demand has been raised, the demand notice issued by the Corporation after 1995, would have contained the name of the petitioner also.

Assessment to property tax is personal in nature and if the assessee fails to pay the tax, proceedings can be taken against the assessee or the occupier of the building owned by the assessee.

17. In the light of the assertion made in the notice, dated 19.12.2004, this Court has to proceed on the footing that Ms. K. Kanarunisha, alone is

the owner of the property and having regard to the receipts and demand notice issued periodically only in her name, the contention that the

petitioner is also entitled to challenge the demand notices issued in respect of the property, as owner or an aggrieved, cannot be countenanced.

The petitioner is not an assessee and therefore, he cannot maintain a writ petition.

18. For the purpose of maintaining a writ petition, the petitioner cannot contend that he is also owner of the property and the said contention is not

supported by the contents of the legal notice issued by K. Kanarunisha, wife of Mr. S.A.C. Hameed. Admittedly, demand notice has been

issued to the occupier of the building, namely, the Manager, Canara Bank, Chidambaranagar Branch, Tuticorin District. Neither the assessee nor

the occupier has challenged the demand notice, before the forum constituted under the Act. When the assessee is available and capable of

defending, the assessment or demand for payment of arrears, as the case may be, it can be defended only by the assessee and a third party cannot

be allowed to step into the shoes of the assessee.

19. When K. Kanarunisha, wife of Mr. S.A.C. Hameed was issued with a notice in A.S. No. 17704 of 2004 demanding a sum of Rs. 3,36,000/-

for representing the arrears of tax for the years 2000-2001 to 2004-2005, for the first half years, she has not chosen to challenge the same, in the

manner known to law. Even assuming, a representation or notice dated 19.12.2004 has been sent, she has not pursued the matter. If proper

assessment had not been made, by issuing any notice to the assessee, as

contemplated under Rule 9-A(1) of Schedule 4 of the Tamil Nadu District

Municipalities Act, the assessee ought to have challenged the abovesaid demand before the appellate authority within the prescribed period.

Having allowed the assessment to be in force, and attained finality, without there being any challenge, it is not open to the husband of the assessee

to come forward and question the notice demanding the arrears of tax issued under Tamil Nadu District Municipalities Act, 1920.

20. As rightly contended by the learned counsel for the Corporation, the writ petition deserves to be dismissed, on the sole ground that, the

petitioner is not an aggrieved person and the assessee had not challenged the assessment and the consequential demand notice issued for the year

2004, within the prescribed period. As per Rule 23 of the Act, an appeal shall lie to the Taxation Appeals Committee in respect of assesment or

imposition of the orders passed by the executive authority. Even taking it for granted that there was no prior notice under Rule 9-A(1) of Schedule

4 of the Tamil Nadu District Municipalities Act, any order passed by the executive authority, as regards assessment is appealable. The assessee

has not filed any appeal. In the abovesaid circumstances, in the absence of any challenge by the assessee questioning the correctness of the orders

issued by the municipal authorities, within the time provided for under the Act and the Rules, before the appropriate forum, it is not open to the

petitioner, husband of the assessee to challenge the same, by way of a writ petition, which would amount to circumventing the statutory remedies

and process. The decision relied on in W.P. Nos. 8550 of 2011 etc batch, dated 14.8.2012 by the Corporation can be made applicable to the

facts of this case. The relevant paragraphs are extracted hereunder:

5. It is well-settled law by the Honourable Apex Court that in revenue matters, this Court cannot by-pass the alternative remedy of appeal.

Moreover, there are disputed questions of facts involved in these cases. In this connection, it is useful to refer to the decision rendered in United

Bank of India Vs. Satyawati Tondon and Others, wherein, it has been held as follows:

17. There is another reason why the impugned order should be set aside. If Respondent No. 1 had any tangible grievance against the notice issued

u/s 13(4) or action taken u/s 14, then she could have availed remedy by filing an

application u/s 17(1). The expression "any person" used in Section 17(1) is of wide import. It takes within its fold, not only the borrower but also guarantor or any other person who may be affected by the action taken u/s 13(4) or Section 14. Both, the Tribunal and the Appellate Tribunal are empowered to pass interim orders under Sections 17 and 18 and are required to decide the matters within a fixed time schedule. It is thus evident that the remedies available to an aggrieved person under the SARFAESI Act are both expeditious and effective. Unfortunately, the High Court overlooked the settled law that the High Court will ordinarily not entertain a petition under Article 226 of the Constitution if an effective remedy is available to the aggrieved person and that this rule applies with greater rigour in matters involving recovery of taxes, cess, fees, other types of public money and the dues of banks and other financial institutions.

In our view, while dealing with the petitions involving challenge to the action taken for recovery of the public dues, etc., the High Court must keep in mind that the legislations enacted by Parliament and State Legislatures for recovery of such dues are code unto themselves inasmuch as they not only contain comprehensive procedure for recovery of the dues but also envisage constitution of quasi judicial bodies for redressal of the grievance of any aggrieved person. Therefore, in all such cases, High Court must insist that before availing remedy under Article 226 of the Constitution, a person must exhaust the remedies available under the relevant statute.

18. While expressing the aforesaid view-, we are conscious that the powers conferred upon the High Court under Article 226 of the Constitution to issue to any person or authority, including in appropriate cases, any Government, directions, orders or writs including the five prerogative writs for the enforcement of any of the rights conferred by Part III or for any other purpose are very wide and there is no express limitation on exercise of that power but, at the same time, we cannot be oblivious of the rules of self-imposed restraint evolved by this Court, which every High Court is bound to keep in view while exercising power under Article 226 of the Constitution. It is true that the rule of exhaustion of alternative remedy is a rule of discretion and not one of compulsion, but it is difficult to fathom any reason why the High Court should entertain a petition filed under Article 226 of the Constitution and pass interim order ignoring the fact that the

petitioner can avail effective alternative remedy by filing application, appeal, revision, etc. and the particular legislation contains a detailed mechanism for redressal of his grievance. It must be remembered that stay of an action initiated by the State and/or its agencies/instrumentalities for recovery of taxes, cess, fees, etc. seriously impedes execution of projects of public importance and disables them from discharging their constitutional and legal obligations towards the citizens. In cases relating to recovery of the dues of banks, financial institutions and secured creditors, stay granted by the High Court would have serious adverse impact on the financial health of such bodies/institutions, which ultimately prove detrimental to the economy of the nation. Therefore, the High Court should be extremely careful and circumspect in exercising its discretion to grant stay in such matters. Of course, if the petitioner is able to show that its case falls within any of the exceptions carved out in Baburam Prakash Chandra Maheshwari Vs. Antanim Zila Parishad now Zila Parishad, Muzaffarnagar, , Whirlpool Corporation Vs. Registrar of Trade Marks, Mumbai and Others, and Harbanslal Sahnia and Another Vs. Indian Oil Corpn. Ltd. and Others, and some other judgments, then the High Court may, after considering all the relevant parameters and public interest, pass appropriate interim order.

19. In Thansingh Nathmal and Others Vs. A. Mazid, Superintendent of Taxes, the Constitution Bench considered the question whether the High Court of Assam should have entertained the writ petition filed by the appellant under Article 226 of the Constitution questioning the order passed by the Commissioner of Taxes under the Assam Sales Tax Act, 1947. While dismissing the appeal, the Court observed as under:

The jurisdiction of the High Court under Article 226 of the Constitution is couched in wide terms and the exercise thereof is not subject to any restrictions except the territorial restrictions which are expressly provided in the Articles. But the exercise of the jurisdiction is discretionary: it is not exercised merely because it is lawful to do so. The very amplitude of the jurisdiction demands that it will ordinarily be exercised subject to certain self-imposed limitations. Resort that jurisdiction is not intended as an alternative remedy for relief which may be obtained in a suit or other mode prescribed by statute. Ordinarily the Court will not entertain a petition for a writ

under Article 226, where the petitioner has an alternative remedy, which without being unduly onerous, provides an equally efficacious remedy. Again the High Court does not generally enter upon a determination of questions which demand an elaborate examination of evidence to establish the right to enforce which the writ is claimed. The High Court does not therefore act as a Court of appeal against the decision of a Court or Tribunal, to correct errors of fact, and does not by assuming jurisdiction under Article 226 trench upon an alternative remedy provided by statute for obtaining relief. Where it is open to the aggrieved petitioner to move another Tribunal, or even itself in another jurisdiction for obtaining redress in the manner provided by a statute, the High Court normally will not permit by entertaining a petition under Article 226 of the Constitution the machinery created under the statute to be bypassed, and will leave the party applying to it to seek resort to the machinery so setup.

20. In *Titaghur Paper Mills Co. Ltd. and Another Vs. State of Orissa and Others*, a three-Judge Bench considered the question whether a petition under Article 226 of the Constitution should be entertained in a matter involving challenge to the order of the assessment passed by the competent authority under the Central Sales Tax Act, 1956 and corresponding law enacted by the State legislature and answered the same in negative by making the following observations:

Under the scheme of the Act, there is a hierarchy of authorities before which the petitioners can get adequate redress against the wrongful acts complained of. The petitioners have the right to prefer an appeal before the Prescribed Authority under sub-section (1) of Section 23 of the Act. If the petitioners are dissatisfied with the decision in the appeal, they can prefer a further appeal to the Tribunal under sub-section (3) of Section 23 of the Act, and then ask for a case to be stated upon a question of law for the opinion of the High Court u/s 24 of the Act. The Act provides for a complete machinery to challenge an order of assessment, and the impugned orders of assessment can only be challenged by the mode prescribed by the Act and not by a petition under Article 226 of the Constitution. It is now well recognised that where a right or liability is created by a statute which gives a special remedy for enforcing it, the remedy provided by that statute only must be availed of. This rule was stated with great clarity by

WILLES, J. in *Wolverhampton New Waterworks Co. v. Hawkesford* in the following passage:

There are three classes of cases in which a liability may be established founded upon statute.... But there is a third class, viz. where a liability not

existing at common law is created by a statute which at the same time gives a special and particular remedy for enforcing it...the remedy provided

by the statute must be followed, and it is not competent to the party to pursue the course applicable to cases of the second class. The form given

by the statute must be adopted and adhered to.

The rule laid down in this passage was approved by the House of Lords in *Neville v. London Express Newspapers Ltd.* and has been reaffirmed

by the Privy Council in *Attorney-General of Trinidad and Tobago v. Gordon Grant & Co. Ltd.* and *Secretary of State v. Mask & Co.* It has also

been held to be equally applicable to enforcement of rights, and has been followed by this Court throughout. The High Court was therefore

justified in dismissing the writ petitions in limine.

21. The views expressed in *Assistant Collector of Central Excise, Chandan Nagar, West Bengal Vs. Dunlop India Ltd. and Others*, in the following

words:

Article 226 is not meant to short-circuit or circumvent statutory procedures. It is only where statutory remedies are entirely ill-suited to meet the

demands of extraordinary situations, as for instance where the very vires of the statute is in question or where private or public wrongs are so

inextricably mixed up and the prevention of public injury and the vindication of public justice require it that recourse may be had to Article 226 of

the Constitution. But then the Court must have good and sufficient reason to bypass the alternative remedy provided by statute. Surely matters

involving the revenue where statutory remedies are available are not such matters. We can also take judicial notice of the fact that the vast majority

of the petitions under Article 226 of the Constitution are filed solely for the purpose of obtaining interim orders and thereafter prolong the

proceedings by one device or the other. The practice certainly needs to be strongly discouraged.

22. In *Punjab National Bank Vs. O.C. Krishnan and Others*, this Court considered the question whether a petition under Article 227 of the

Constitution was maintainable against an order passed by the Tribunal u/s 19 of the DRT Act and observed:

5. In our opinion, the order which was passed by the Tribunal directing sale of mortgaged property was appealable u/s 20 of the Recovery of

Debts Due to Banks and Financial Institutions Act, 1993 (for short "the Act"). The High Court ought not to have exercised its jurisdiction under

Article 227 in view of the provision for alternative remedy contained in the Act. We do not propose to go into the correctness of the decision of

the High Court and whether the order passed by the Tribunal was correct or not has to be decided before an appropriate forum.

6. The Act has been enacted with a view to provide a special procedure for recovery of debts due to the banks and the financial institutions. There

is a hierarchy of appeal provided in the Act, namely, filing of an appeal u/s 20 and this fast-track procedure cannot be allowed to be derailed either

by taking recourse to proceedings under Articles 226 and 227 of the Constitution or by filing a civil suit, which is expressly barred. Even though a

provision under an Act cannot expressly oust the jurisdiction of the Court under Articles 226 and 227 of the Constitution, nevertheless, when there

is an alternative remedy available, judicial prudence demands that the Court refrains from exercising its jurisdiction under the said constitutional

provisions. This was a case where the High Court should not have entertained the petition under Article 227 of the Constitution and should have

directed the respondent to take recourse to the appeal mechanism provided by the Act.

23. In C.C.T. Orissa and Others Vs. Indian Explosives Ltd., the Court reversed an order passed by the Division Bench of Orissa High Court

quashing the show cause notice issued to the respondent under the Orissa Sales Tax Act by observing that the High Court had completely ignored

the parameters laid down by this Court in a large number of cases relating to exhaustion of alternative remedy.

21. Yet another aspect to be considered in this case is that even as per the version of the petitioner, when a demand notice was issued to the

assessee for payment of Rs. 3,36,000/- for the period from 2000-2001 to 2004-2005, the assessee has remitted a sum of Rs. 1,05,498/-, by way

of demand draft, for which, according to the petitioner, no receipt was issued. At that time, tax has been revised from Rs. 11,727/- to Rs.

33,337/- per half year. Revision of tax has not been challenged by the assessee in the manner known to law. In view of the above discussion, this

Court is not inclined to delve into the other contentions raised in the writ petition. The writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.