



2026:CHC-PB:63-DB

# **IN THE HIGH COURT AT CALCUTTA**

CIVIL APPELLATE JURISDICTION  
[CIRCUIT BENCH AT PORT BLAIR]

**PRESENT : THE HON'BLE JUSTICE TIRTHANKAR GHOSH**

**AND**

**THE HON'BLE JUSTICE CHAITALI CHATTERJEE (DAS)**

**MAT/18/2026**

**IA No. CAN/1/2026**

M/S Aquays Hotels and Resorts Pvt. Ltd.

Vs

The Lt. Governor and others

**With**

**MAT/19/2026**

**IA No. CAN/1/2026**

M/s Hotel Rajadeepam

Vs.

The Lt. Governor and ors.

**With**

**MAT/21/2026**

**IA No. CAN/1/2026**

Smti. K. Shobha

Vs.

The Lt. Governor and ors.

**With**

**MAT/22/2026**

**IA No. CAN/1/2026**

M/s Hotel Arasi

Vs.

The Lt. Governor and Others

**With**

**MAT/23/2026**

**IA No. CAN/1/2026**

M/s Royal Petroleum

Vs.



The Lt. Governor and ors.

**With**

**MAT/24/2026**

**IA No. CAN/1/2026**

M/s Hotel A.T. Villa

Vs.

The Lt. Governor and ors.

**With**

**MAT/28/2026**

**IA No. CAN/1/2026**

M/s B.R.B.Bar and Restaurant

Vs.

The Lt. Governor and ors.

**With**

**MAT/29/2026**

**IA No. CAN/1/2026**

M/s Stalin Bar and Restaurant

Vs.

The Lt. Governor and ors.

**With**

**MAT/30/2026**

**IA No. CAN/1/2026**

M/s Medival Islander Inn Bar

Vs.

The Lt. Governor and ors.

**With**

**MAT/31/2026**

**IA No. CAN/1/2026**

M/s Hotel Aparupa (A) Pvt. Ltd.

Vs.

The Lt. Governor and Others

**With**



**MAT/32/2026**

**IA No. CAN/1/2026**

M/s Aparupa Sands Marina

Vs.

The Lt. Governor and ors.

**With**

**MAT/33/2026**

**IA No. CAN/1/2026**

M/s Jadwet Trading Company

Vs.

The Lt. Governor and Others

**With**

**MAT/34/2026**

**IA No. CAN/1/2026**

M/s Southern Holdings and Investments (Chennai) Pvt. Ltd.

Vs.

The Lt. Governor and ors.

**With**

**MAT/35/2026**

**IA No. CAN/1/2026**

Shri. Praveen

Vs.

The Lt. Governor and Ors.

**With**

**MAT/36/2026**

**IA No. CAN/1/2026**

M/s Hotel Sentinel

Vs.

The Lt. Governor and ors.

**With**

**MAT/37/2026**

**IA No. CAN/1/2026**

M/s Dharma Cool Bar

Vs.

The Lt. Governor and ors.



**With**

**MAT/38/2026**

**IA No. CAN/1/2026**

Smti. Usha Moorthy

Vs.

The Lt. Governor and ors.

**With**

**MAT/39/2026**

**IA No. CAN/1/2026**

M/s Welcomhotel Bay Island

Vs.

The Lt. Governor and ors.

**With**

**MAT/40/2026**

**IA No. CAN/1/2026**

Shri. V.Karuppaiah

Vs.

The Lt. Governor and Others

**With**

**MAT/41/2026**

M/s Seashell

Vs.

The Lt. Governor and Others

**With**

**MAT/42/2026**

**IA No. CAN/1/2026**

M/s APT Bar and Restaurant

Vs.

The Lt. Governor and Others

**With**

**MAT/43/2026**

**IA No. CAN/1/2026**

M/s Ashoka Bar and Restaurant

Vs.

The Lt. Governor and Others



**With**

**MAT/44/2026**

**IA No. CAN/1/2026**

M/s Purna Pushpawalli Bar and Restaurant

Vs.

The Lt. Governor and ors.

**With**

**MAT/45/2026**

**IA No. CAN/1/2026**

M/s Hotel Excel Bar and Restaurant

Vs.

The Lt. Governor and ors.

**With**

**MAT/46/2026**

**IA No. CAN/1/2026**

M/s Oriental Filling Station

Vs.

The Lt. Governor and Ors.

**With**

**MAT/47/2026**

**IA No. CAN/1/2026**

M/s Manoj Marketing

Vs.

The Lt. Governor and Others

**With**

**MAT/48/2026**

**IA No. CAN/1/2026**

M/s Sinclairs Hotel Ltd.

Vs.

The Lt. Governor and Ors.

**With**

**MAT/49/2026**

**IA No. CAN/1/2026**

The Whistling Wood



Vs.  
The Lt. Governor and Ors.

**With**

**MAT/50/2026**  
**IA No. CAN/1/2026**  
M/s G. International  
Vs.  
The Lt. Governor and Others

**With**

**MAT/51/2026**  
**IA No. CAN/1/2026**  
M/s G.M.S. Restaurant  
Vs.  
The Lt. Governor and Others

**With**

**MAT/52/2026**  
**IA No. CAN/1/2026**  
T. Kannan  
Vs.  
The Lt. Governor and Ors.

**With**

**MAT/53/2026**  
**IA No. CAN/1/2026**  
V. Ravichandran  
Vs.  
The Lt. Governor and Ors.

**With**

**MAT/54/2026**  
**IA No. CAN/1/2026**  
M/s Unique Bar and Restaurant  
Vs.  
The Lt. Governor and Others

**With**



**MAT/55/2026**  
**IA No. CAN/1/2026**

M/s Holiday Inn

Vs.

The Lt. Governor and Others

**With**

**MAT/56/2026**  
**IA No. CAN/1/2026**

M/s Hotel Sarvottam(A) Pvt. Ltd.

Vs.

The Lt. Governor and Others

**With**

**MAT/57/2026**  
**IA No. CAN/1/2026**

M/s TSG AQUA (TSG Bella Bay)

Vs.

The Lt. Governor and Others

**With**

**MAT/58/2026**  
**IA No. CAN/1/2026**

M/s TSG Hotel and Resorts

Vs.

The Lt. Governor and Others

**With**

**MAT/59/2026**  
**IA No. CAN/1/2026**

M/s Silver Sand Neil

Vs.

The Lt. Governor and Others

**With**

**MAT/60/2026**  
**IA No. CAN/1/2026**

Shri. K.V. Rama Rao

Vs.



The Lt. Governor and Others

**With**

**MAT/61/2026**

**IA No. CAN/1/2026**

M/s CS Empire

Vs.

The Lt. Governor and Others

**With**

**MAT/62/2026**

**IA No. CAN/1/2026**

Smti. C. Kalaiarasi

Vs.

The Lt. Governor and Others

**With**

**MAT/63/2026**

**IA No. CAN/1/2026**

M/s Hotel Raj Prakash

Vs.

The Lt. Governor and Others

**With**

**MAT/64/2026**

**IA No. CAN/1/2026**

M/s Pearl Park Beach Resort

Vs.

The Lt. Governor and Others

**With**

**MAT/65/2026**

**IA No. CAN/1/2026**

Shri. K.V.Narasimha Rao

Vs.

The Lt. Governor and Others

**With**



**MAT/66/2026**  
**IA No. CAN/1/2026**  
M/s Annu Bar and Restaurant  
Vs.  
The Lt. Governor and Others

**With**

**MAT/68/2026**  
**IA No. CAN/1/2026**  
M/s Pristine Beach Resort  
Vs.

The Lt. Governor and Others

For the appellant(s) : Ms. Anjili Nag, Sr. Adv.  
Mr. Adarsh Ilango  
Ms. K. Bhawani  
Ms. Sohini Biswas

For the respondents : Mr. Rakesh Kumar  
Mr. S.Naidu

Heard on : March 18 & 19, 2026

Judgment delivered on : March 23, 2026

**TIRTHANKAR GHOSH, J.**

1. All the appeals have been taken up analogously for admission hearing by consent of the parties, since the same originated from the common judgement passed in a bunch of writ petitions by the learned Single Judge.

2. The intra court appeals have been preferred against the judgment and order dated February 10, 2026 passed by the learned Single Bench wherein the learned Court was pleased to pass the following directions:



“61. I therefore direct that the records of all those writ petitions out of the bunch of 47 petitions which have been heard, which were filed prior to August 19, 2025, be transferred/transmitted to the Appellate Tribunal constituted under section 73 of the VAT Regulation, 2017. All those writ petitioners as well as the respondents will be entitled to file additional pleadings before the Tribunal. The Tribunal will decide those cases in accordance with law. In respect of all those pre-August 19, 2025, cases, the Tribunal will not insist on pre-deposit being made in terms of section 76 of the VAT Regulation, 2017. The appeals will be decided within the statutory framework in accordance with the applicable laws, Rules and Regulations. The said writ petitions will be treated as disposed of insofar as the records of this Court are concerned.

62. The records of the following writ petitions will be transferred/ transmitted to the Appellate Tribunal.

- (i) WPA/345/2025 (M/s. Seashell vs. The Lt. Governor and Others).
- (ii) WPA/391/2025 (Shri Praveen vs. The Lt. Governor and others).
- (iii) WPA/392/2025 (Shri M/s Sinclairs Hotel Limited vs. The Lt. Governor and others).
- (iv) WPA/393/2025 ( Smt Kalaiarasi vs. The Lt. Governor and others).
- (v) WPA/394/2025 (M/s. Aquays Hotels and Resorts Pvt. Ltd. vs. The Lt. Governor and Others).
- (vi) WPA/395/2025 (Shri T. Kannan Vs. The Lt. Governor and Others).
- (vii) WPA/396/2025 (Shri. V. Ravichandran Vs. The Lt. Governor and Others).
- (viii) WPA/397/2025 (M/s. Hotel Sentinel Vs. The Lt. Governor and Others).
- (ix) WPA/398/2025 (Welcomehotel Bay Island, Unit of ITC Hotel Ltd. Vs. The Lt. Governor and Others).
- (x) WPA/366/2025 (M/s. TSG Hotels and Resorts vs. The Lieutenant Governor and Others).
- (xi) WPA/367/2025 (Shri V. Karuppaiah Vs. The Lieutenant Governor and Others).



- (xii) *WPA/368/2025 (M/s. TSG Aqua (TSG Bella Bay) Vs. The Lieutenant Governor and Others).*
- (xiii) *WPA/369/2025 (Shri K. V. Rama Rao Vs. The Lieutenant Governor and Others).*
- (xiv) *WPA/399/2025 (M/s. Oriental Filling Station Vs. The Lt. Governor and Others).*
- (xv) *WPA/400/2025 (M/s. Jadwet Trading Company Vs. The Lt. Governor and Others).*
- (xvi) *WPA/401/2025 (M/s. Royal Petroleum Vs. The Lt. Governor and Others).*
- (xvii) *WPA/418/2025 (M/s. Kamala Trading Vs. The Lieutenant Governor and Others).*
- (xviii) *WPA/420/2025 (M/s. Manoj Marketing Vs. The Lt. Governor and Others).*
- (xix) *WPA/370/2025(M/s. Holiday Inn vs. The Lieutenant Governor and Others).*
- (xx) *WPA/371/2025 (Smti. Usha Moorthy -vs- The Lieutenant Governor and Others).*
- (xxi) *WPA/372/2025 (M/s. Aparupa Sands Marina Vs. The Lieutenant Governor and Others).*
- (xxii) *WPA/373/2025 (M/s. Hotel Aparupa (A) Pvt. Ltd. vs. The Lieutenant Governor and Others).*
- (xxiii) *WPA/374/2025 (M/s. Southern Holdings and Investments (Chennai) Pvt. Ltd Vs. The Lieutenant Governor and Others).*
- (xxiv) *WPA/375/2025 (Shri K. V. Narsimha Rao Vs. The Lieutenant Governor and Others).*
- (xxv) *WPA/381/2025 (M/s. Silver Sand Neil vs. The Lieutenant Governor and Others).*
- (xxvi) *WPA/383/2025 (Smti. K. Shobha vs. The Lieutenant Governor and Others).*
- (xxvii) *WPA/384/2025 (M/s. C.S. Empire vs. The Lieutenant Governor and Others).*
- (xxviii) *WPA/385/2025 (M/s. Pearl Park Beach Resort vs. The Lieutenant Governor and Others).*

63. Insofar as the writ petitions filed on or after August 19, 2025, are concerned, the same shall stand dismissed solely on



*the ground of availability of an alternative statutory remedy. Those writ petitioners will be at liberty to approach the Appellate Tribunal. If any question of limitation/time-bar arises, the Tribunal shall decide the issue taking into consideration the applicable provisions of the Limitation Act, 1963, and in particular section 14 thereof as also the factum of pendency of the writ petitions in this Court.*

*64. The following writ petitions stand dismissed.*

- (i) WPA/566/2025 (M/s. Hotel Arasi Vs. The Lt. Governor and Others).*
- (ii) WPA/568/2025 (M/s. Medieval Islander Inn Bar Vs The Lt. Governor and Others).*
- (iii) WPA/569/2025 (M/s. Hotel Sarvottam (A) Pvt. Ltd. Vs. The Lt. Governor and Others).*
- (iv) WPA/570/2025 (M/s. Hotel Rajadeepam Vs The Lieutenant Governor and Others).*
- (v) WPA/573/2025 (M/s. Whistling Wood Vs. The Lieutenant Governor and Others).*
- (vi) WPA/574/2025 (M/s. Apt Bar and Restaurant Vs. The Lieutenant Governor and Others).*
- (vii) WPA/575/2025 (M/s. Dharma Cool Bar Vs The Lieutenant Governor and Others).*
- (viii) WPA/583/2025 (M/s. Hotel Raj Prakash Vs The Lieutenant Governor and Others).*
- (ix) WPA/546/2025 (M/s. Annu Bar and Restaurant vs. The Lt. Governor and Others).*
- (x) WPA/547/2025 (M/s. Pristine Beach Resort vs. The Lt. Governor and Others).*
- (xi) WPA/549/2025 (M/s. Ashoka Bar and Restaurant vs. The Lt. Governor and Others).*
- (xii) WPA/550/2025 (M/s. B. R. B. Bar and Restaurant Vs Lieutenant Governor and Another).*
- (xiii) WPA/551/2025 (M/s. Purna Pushpawalli Bar and Restaurant Vs. Lieutenant Governor and Another).*
- (xiv) WPA/552/2025 (M/s. Stalin Bar and Restaurant vs. The Lieutenant Governor and Others).*



- (xv) WPA/558/2025 (M/s Hotel A.T. Villa vs.The Lieutenant Governor and others).
- (xvi) WPA/562/2025 (M/s. Hotel Exel Bar and Restaurant vs. The Lt. Governor and Others).
- (xvii) WPA/563/2025 (M/s. Unique Bar and Restaurant vs. The Lt. Governor and Others).
- (xviii) WPA/564/2025 (M/s. G. International vs. The Lt. Governor and Others).
- (xix) WPA/565/2025 (M/s. G. M. S. Restaurant Vs The Lt. Governor and Others).

*65. I clarify that I have not touched the merits of the respective cases of the writ petitioners in the 47 writ petitions which are being disposed of by this judgment and order. The Appellate Tribunal is requested to decide the transferred cases or any appeal(s) that may be preferred by any or all of the writ petitioners whose petitions stand dismissed by this order, without being influenced by any observation in this judgment and order.”*

3. Learned advocate appearing for the appellant(s) argued that section 34(1)(a) states that reassessment which is made by the commissioner should be within a period of 4 years from the end of the year comprising tax period(s). In the instant case the last date to issue the notice of assessment(s) has already expired and as such the notices of assessment of tax due and penalty assessed was barred by limitation. Therefore, the same is without any jurisdiction. In order to substantiate the same, learned advocate submitted that for the tax period in the financial year 2017-2018, the limitation commences on 31.03.2018 and the period concludes on 31.03.2022; similarly for the financial year 2018-2019, the limitation commences on 31.03.2019 and concludes on 31.03.2023; for



the financial year 2019-2020, limitation commences on 31.03.2020 and concludes on 31.03.2024.

4. It was argued on behalf of the petitioner that section/Regulation 58 (4) (b) of the Andaman and Nicobar Islands Value Added Tax Regulation, 2017 states that the Commissioner shall only after considering the returns, evidence furnished in the returns and evidence acquired in the course of audit shall issue notices under Section 32 and 33 of the Regulation. The same was not done in the instant case and as such the principle of natural justice has been violated.

5. It was also argued that the order of the Commissioner dated 07.01.2021 and the notification dated 31.12.2020 is in contravention of Regulation 70 (5) and 112 (3) as the order was not published in the official gazette, no retrospective action is permissible.

6. On behalf of the appellant(s), it was contended that the returns were filed by the appellants only in 2024 and therefore the assessment is not barred by limitation is unacceptable, as the notice to file returns has been issued in 2024 itself. The order dated 07.01.2021 cannot be given any importance as the same has not been notified as per the Regulation. Further, the notice which is required to be issued under Regulation 58 is prescribed in the Regulation itself i.e. Form 37 and no such notice has been issued till date.

7. It was also argued that from the notice under Section 32 and 33 of the Regulation it is impossible to find out how the Commissioner has



arrived at the calculation, relating to payment of tax particularly when the turn over assessed by the assessee and turn over assessed by the authorities are the same.

8. Lastly it was argued that the manner of regulating the procedure and disposal of the business with regard to the appellate tribunal has not been brought in force in the form of Regulation as per Regulation 70(6) as such that the principles of alternative remedy is incomplete and not applicable in the facts of the present case.

9. Learned advocate for the appellant, in order to fortify the arguments relied upon the following judgments:-

(a) KUBER |India) Sales Private Limited vs. Secretary Finance Department, Government of Tripura, Agartala & others Para 11.

(b) M/s. Tata Teleservices Limited Vs The State of Chhattisgarh and others Civil Appeal No. 1993 of 2022) Para 4-7

(c) Calcutta Discount Co. Limited Vs Income Tax Officer, Companies District-I, Calcutta & another in 1961 AIR Supreme Court 372-Para 28-30.

(d) M/s. Yogi Petroleum Vs The Commissioner (Vat) Dadar and Nagar Haveli (WRIT PETITION (STAMP) NO. 93644 OF 2020), para 58 to 61.

(e) The Calcutta Municipal Corporation and others Vs The Cricket Association of Bengal and others APO/248 of 2016 with WPO/2662 of 1996]. Para 64

(f) Jharna Saha Vs Joint Commissioner of Sales TAX-Para 3 5.

(g) M/s Shiv Steels Vs. The State of Assam and Others (2025 INSC 1126) para 14 and 15.

(h) Durga Steel Rolling Mills Vs. Commissioner of Commercial Taxes (2024: AHC-LKO:22796)



(i) M/s Sayar Cars vs. Appellate Deputy Commissioner (CT) WP No.30251, 30256 and 30258 of 2019.

10. Learned advocate appearing for the State respondents on the other hand, submitted that a plain reading of section 34 contemplates that no assessment or reassessment shall be made after the expiry of four years from the end of the year for which returns were furnished under section 26 or 28. Further reading of section 26 indicates that the returns under the said sections are to be furnished in the format and manner and within the date prescribed by the Commissioner. However, no such prescription was made prior to the notification of rules.

11. Additionally it was contended that the procedural mechanism necessary to initiate proceeding being not in place, the initiation of the legal process was impossible. Under those circumstances, the question of limitation becomes inherently ambiguous, as there was no scope of commencement of initiation of any proceeding.

12. It was contended on behalf of the State-respondents that the procedural framework was brought into force only on 14.12.2020 through an official notification of the Andaman and Nicobar Islands Value Added Tax Rules, 2020 and a grace period was granted to the registered dealers till 28.03.2021 for filing of returns and clearance of past dues as per office order no.18 dated 07.01.2021. Such being the scenario, no proceeding has been lawfully initiated prior to expiry of such grace period.



13. Relying upon such circumstances existing, the law of limitation cannot be applied as the period for computation would commence only after 31.03.2021. It was therefore contended that the limitation prescribed under the statute is to be computed in the present case from the end of the year for which returns were filed. In the present case, although returns relating to the year 2017-2018 to 2020-2021 no prescribed return format existed till 2020 and a statutory grace period for filing for such returns was granted upto 28.03.2021. Consequently, the returns for the second quarter of 2017-2018 to third quarter of 2020-2021 could not be lawfully filed prior to the said date.

14. In order to rebut the issue raised by the appellant relating to Regulation 58, it was argued that the said Regulation provides for audit and do not provide any mechanism for its exclusion in issuance of notice under sections 32 and 33 of the Regulation.

15. Under the Regulation audit and assessment are two distinct features and merely because both the functions culminate with the issuance of notice of assessment, the same cannot be construed to be synonymous. According to the learned advocate, audit is a mechanism for review of any assessment made under sections 32 and 33.

16. So far as the issue relating to the appellate tribunal is concerned, it was submitted on behalf of the respondents that the Court of learned Chief Judicial Magistrate -cum- Civil Judge (Senior Division), Car Nicobar with link Court of Joint Civil Judge (Senior Division), Sri Vijaya Puram



was designated as the “Appellate Tribunal” under section 73 of the Regulation in consultation with the Hon’ble the Chief Justice of the High Court of Calcutta vide Andaman and Nicobar Gazette Notification No.69/2025 dated 19<sup>th</sup> August, 2025 with immediate effect.

17. As per section 76, any person aggrieved with any decision under section 74 may appeal to the Appellate Tribunal within two months of service of impugned decision. As per section 76(4) before preferring an appeal to the Tribunal, the person aggrieved shall deposit the amount in dispute. As such, the dealers were directed to make payment within fifteen days to avoid further accrual of interest.

18. To rebut the contention regarding the operation of the Tribunal, learned advocate for the respondents submitted that powers and manner of conduct of the Tribunal has been laid down under section 76 of the Regulation and the procedure with regard to filing has been prescribed in Rule 55A, 55B and 55C. Further the Tribunal as notified is a judicial authority, which has commenced operation under the relevant provision of the Civil Procedure Code, Evidence Act, and Rules of Court which adequately govern procedural conduct.

19. Lastly, it was submitted that the issue which has been canvassed in the present appeal(s) has already been considered by the learned Single Judge who after taking into account the relevant issues has arrived at its finding. There is no illegality in the findings of the learned Single Judge and as such the appeal may be dismissed.



20. Learned Single Judge, while arriving at the conclusion, framed the following issues:

- (i) *Whether the present writ petition should be entertained notwithstanding availability of an alternative remedy in the form of a statutory appeal under section 76 of the Regulation.*
- (ii) *Whether or not, the notice of default assessment of tax and interest dated December 31, 2024, under section 32 of the Regulation is time barred.*
- (iii) *Whether or not, the notice of assessment of penalty under section 33 dated December 31, 2024, is bad in law.*
- (iv) *Whether or not both the notices dated December 31, 2024, stand vitiated by reason of the same having been issued in breach of the principles of natural justice.*
- (v) *Whether or not the two notices, both dated December 31, 2024, are bad in law for being vague and bereft of material particulars.*

21. The issue nos. (i), (ii) and (iv) were considered conjointly by the learned Single Judge and thereafter the conclusion was arrived, that since alternative remedy was available, the High Court should normally refuse to exercise its higher prerogative writ jurisdiction. To that effect the learned Trial Court recorded its satisfaction that by a Notification dated 19<sup>th</sup> August 2025 the learned Chief Judicial Magistrate-cum-Civil Judge (Senior Division), Car Nicobar with link Court of Joint Civil Judge (Senior Division), Sri Vijaya Puram was designated as the Appellate Tribunal contemplated in section 76 of the VAT Regulation with immediate effect.



22. Reliance was placed by the learned Trial Court on ***PHR Invent Educational Society vs. UCO Bank and others*** in ***Civil Appeal No 4845 of 2024***. Reference was made to ***Babu Ram Prakash Chanda Maheshwari Vs. Antarim Zilla Parishad (1968 SCC Online SC 45)***; ***United Bank of India vs. Satyawati Tondon and others*** reported in ***(2010) 8 SCC 110***; ***Commissioner of Income Tax and others vs. Chhabil Dass Agarwal*** reported in ***(2014) 1 SCC 603*** - for arriving at the conclusion that if an alternative remedy is available to an aggrieved person, particularly under the statute and there is a mechanism for redressal of grievance, the High Court should not entertain an application under Article 226 of the Constitution of India.

23. So far as the issue relating to limitation is concerned, which has been canvassed on behalf of the appellant(s) that, the limitation is a question of law and in this case, the notices having been issued beyond the period of limitation is wholly without jurisdiction, the same was also exhaustively dealt with taking into account cases where limitation is only question of law and cases where limitation is a mixed-question of fact and law. To that effect, the learned Court relied upon ***P. Kumarakurubaran vs. P. Narayanan and others, Civil Appeal No. 5622 of 2025 (arising from SLP(C) NO.2549 of 2021)***; ***Shri Mukund Bhavan Trust and Ors versus Shrimant Chhatrapati Udayan Raje Pratapsinh Maharaj Bhonsle and another, Civil Appeal No.14807 of 2024 (Arising out of SLP (C) No.18977 of 2016)***.



24. The learned Trial Court further proceeded to deal with the documents relied upon in the writ petition wherein copies of returns were not enclosed. As such, it was held that the issue of limitation do not take the shape of a jurisdictional issue in the facts of the case. Thus the Court arrived at a conclusion that if the notices dated December 31, 2024 were without jurisdiction, the appellant(s)/petitioner(s) should not be permitted to invoke the power of the High Court under Article 226 of the Constitution of India as the statute provides the availability of appellate remedy.

25. Learned Trial Court thereafter dealt with the issue relating to section 74 of the Regulation and observed that the appellant(s)/petitioner(s) having filed their written objection asking for hearing and such hearing was held before the Joint Commissioner, who by a reasoned order dated 8<sup>th</sup> July, 2025 over-ruled the objection and upheld the two notices, do reflect the appellant(s)/petitioner(s), by his/their conduct, waived the rights if any, to invoke the writ jurisdiction of the High Court for challenging the impugned notices and opted for statutory avenue for challenging such notices. It was held that once the petitioner(s)/appellant(s) was unsuccessful before the Joint Commissioner, the petitioner(s)/appellant(s) should not be allowed to invoke writ jurisdiction to challenge the same notices.

26. While dealing with the issue relating to breach of natural justice, learned Trial Court relied upon the judgement of the Hon'ble Apex Court



in ***Swadeshi Cotton Mills vs. Union of India*** reported in **1981 (1) SCC 664** and on assessment of the Regulations arrived at its finding that a reading of sections 32 and 33 of the Regulation do not require the office of the Commissioner to grant an opportunity of hearing to the assessee prior to issuance of such notices.

27. It was further reasoned that section 74 of the Regulation provides an opportunity to the assessee to file written objection to the said notices and participate in a hearing before the Commissioner, the said course of action was adopted by the Appellants/Petitioners.

28. Having considered the reasons assigned by the learned Single Judge, while dealing with the grievance of the present appellant(s)/petitioner(s), we are of the opinion that same being a reasoned order and the scope of intra court appeal being limited, we do not find any reason to admit the respective appeals.

29. As such, the appeals being **MAT/18/2026, MAT/19/2026, MAT/21/2026, MAT/22/2026, MAT/23/2026, MAT/24/2026, MAT/28/2026, MAT/29/2026, MAT/30/2026, MAT/31/2026, MAT/32/2026, MAT/33/2026, MAT/34/2026, MAT/35/2026, MAT/36/2026, MAT/37/2026, MAT/38/2026, MAT/39/2026, MAT/40/2026, MAT/41/2026, MAT/42/2026, MAT/43/2026, MAT/44/2026, MAT/45/2026, MAT/46/2026, MAT/47/2026, MAT/48/2026, MAT/49/2026, MAT/50/2026, MAT/51/2026, MAT/52/2026, MAT/53/2026, MAT/54/2026, MAT/55/2026,**



**MAT/56/2026, MAT/57/2026, MAT/58/2026, MAT/59/2026, MAT/60/2026, MAT/61/2026, MAT/62/2026, MAT/63/2026, MAT/64/2026, MAT/65/2026, MAT/66/2026** and **MAT/68/2026** are accordingly dismissed.

30. Pending applications, if any, are consequently disposed of.

31. All parties shall act on the server copy of this judgment duly downloaded from the official website of this Court.

32. Urgent photostat certified copy of this judgment, if applied for, be supplied to the parties upon compliance of all requisite formalities.

**( Tirthankar Ghosh, J. )**

I agree.

**( Chaitali Chatterjee (Das), J. )**