

Alkem Laboratories Limited

Civil Writ Jurisdiction Case No.10859 of 2018

FORUM

Patna High Court

ORDER DATE

02 Aug 2018

NOTE TYPE

Source extract

01 CONCLUDING COURT PASSAGE - SOURCE EXTRACT

In Ram and Shyam Co. vs. State of Haryana, (1985) 3 SCC 267 this Court has noticed that if an appeal is from “Caesar to Caesar’s wife” the existence of alternative remedy would be a mirage and an exercise in futility. In the instant case, neither has the assessee-writ petitioner described the available alternate remedy under the Act as ineffectual and non-efficacious while invoking the writ jurisdiction of the High Court nor has the High Court ascribed cogent and satisfactory reasons to have exercised its jurisdiction in the facts of instant case. 21. In light of the same, we are of the considered opinion that the Writ Court ought not to have entertained the Writ Petition filed by the assessee, 9 wherein he has only questioned the correctness or otherwise of the notices issued under Section 148 of the Act, the re-assessment orders passed and the consequential demand notices issued thereon.” In the aforementioned case, the Hon’ble Supreme Court while setting aside the judgment and order of the Hon’ble High Court passed in Writ Petition (C) No.44 of 2009 by which the High Court had interfered with the notice under Section 148 of the Act, granted liberty to the respondents to file an appropriate petition/appeal against the order of reassessment passed under Section 148 of the Act. We are of the considered opinion that in absence of any concluded facts being available before us, it would not be proper to interfere with the impugned notice and order in the present writ proceeding. We, therefore, dismiss the writ application giving liberty to the petitioner to avail statutory alternative remedies, if so advised, in the facts and circumstances of the case.

SOURCE & VERIFICATION

Supplied court copy / compilation pp. 220-228

READ ORDER

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