

**HIGH COURT OF SIKKIM**  
Record of Proceedings

**WP(C) No. 21/2018**

M/S SHEELA FOAM LIMITED

Petitioner (s)

VERSUS

STATE OF SIKKIM & ORS.

Respondent (s)

**Date: 01/06/2018**

**CORAM:**

**HON'BLE THE CHIEF JUSTICE**  
**HON'BLE MRS. JUSTICE MEENAKSHI MADAN RAI**

For Petitioner (s) : Mr. Boudhayan Bhattacharya, Mr. Anindya Bagchi, Mr. Partha Pratim Saha and Mr. Dilip Kumar Tamang, Advocates.

For Respondent (s) : Mr. Karma Thinlay, Sr. Govt. Advocate with Mr. Thinlay Dorjee Bhutia, Govt. Advocate, Mr. S.K. Chettri and Ms. Pollin Rai, Asstt. Govt. Advocates.

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Questioning the legality and the validity of the Assessment Order dated 27<sup>th</sup> April 2018 (Annexure P-1), the instant Petition is filed on the sole ground that in the light of Sub-Section (3) of Section 42 of the Sikkim Value Added Tax Act, 2005 (for short "the Act"), the Authorities are not competent to pass the impugned Assessment Order after a period of six years imposing assessment to the tune of Rs.14,11,07,953/- (Rupees fourteen crores, eleven lakhs, seven thousand, nine hundred and fifty-three) only, for the period from April 2005 to March, 2012.

Responding to the submission, Mr. Karma Thinlay, learned Senior Government Advocate, submits that the instant Petition is not maintainable at this stage when there is an alternative

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statutory remedy of taking recourse to the appellate forum under Section 73 of the Act is available.

On consideration, we are of the considered view that at this stage, the Petition may not be maintainable, thus, reserving liberty, on the request of learned Counsel appearing for the Petitioner, to approach the appellate forum for disposal of the Petition, the Writ Petition is disposed of.

Learned Senior Government Advocate appearing for the Respondent Authorities submits that the Assessment Order shall not be enforced for a period of 15 (fifteen) days from today.

**Judge**

01.06.2018

**Chief Justice**

01.06.2018

jk/ds

**Index : Yes / No**  
**Internet : Yes / No**