

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.11421 OF 2024

Manoj Kumar Singh Proprietor of M.S.
Mahi Infotech ... Petitioner

Versus

Union of India Thr. The Secretary ... Respondent

Mr. Satish S. Sharma, for Petitioner.

Mr. Sangeeta Yadav, for Respondents.

**CORAM : M.S. Sonak &
Advait M. Sethna, JJ.**

DATED : 10 September 2025

P.C.:-

1. Heard Mr. Sharma, learned counsel for the Petitioner and Ms. Yadav, learned counsel for the Respondents.
2. The Petitioner challenge orders dated 1 March 2024 and 26 March 2024 by instituting this Petition.
3. Insofar as the order dated 1 March 2024 is concerned, Ms. Yadav had made a statement on the previous occasion that the same was being withdrawn. Today, she has also produced on record an order dated 4 September 2024 recalling the order dated 1 March 2024. Accordingly, the grievance regarding the order dated 1 March 2024 does not survive.

4. Insofar as the challenge to the order dated 26 March 2024 is concerned, Mr. Sharma admits that the Petitioner has an alternate and efficacious remedy of an Appeal. However, he contends that since this order is made in violation of the principles of natural justice, we should not relegate the Petitioner to avail of the alternate remedy, though available. The violation alleged is that the Petitioners' reply to the show-cause notice is not considered.

5. Mr. Sharma further submitted that this order dated 26 March 2024 imposes a penalty of approximately Rs. 20 Lakhs upon the Petitioner, and if the Petitioner is required to file an appeal, that would entail making a pre-deposit of 7.5% of this amount. He submits that the petitioner may not be able to afford to make such a pre-deposit.

6. Ms. Yadav learned Counsel for the Respondent submits that principles of natural justice were duly complied with in the present matter. The Petitioner's statement was recorded, and the order is quite consistent with the statement made not only by the Petitioner but also by the party from whom the Petitioner procured the goods. The contention about the non-consideration of the reply is incorrect. Accordingly, she submits that there is no infirmity in the impugned order dated 26 March 2024 or, in the alternative, there is no case made out to deviate from the rule of exhaustion of alternate remedies.

7. We have considered the rival contentions. We cannot, in the facts of this case, prima facie accept the plea of failure of natural justice. In any event, we do not wish to finally pronounce on this aspect because it would be appropriate if, in the facts of this case, even the issue of any alleged failure of natural justice is kept open to be determined by the Appellate Authority. The rival contentions of the alleged non-consideration of the Petitioner's response and the impugned order being based on a statement made by the Petitioner himself in writing before the Adjudicating Authority are something that can be best evaluated and examined by the Appellate Authority in the first instance.

8. Regarding undue hardships or financial incapacity, there are hardly any averments in the petition to this effect. In any event, it is difficult to believe this plea simply based upon bald submissions backed without any material to support the same. Besides, the petitioner is running a business of dealing in spare parts of laptops, like bases, touch pads, hinges, panels etc. under the name and style of M/s. Mahi Infotech. The pre-deposit amount would be in the range of Rs.1.5 Lakhs or thereabout. Considering all these circumstances, we do not think that the Petitioner should be excused from exhausting the alternate remedy of appeal, which is very much available to the Petitioner qua the order of 26 March 2024.

9. At this stage, the learned counsel for the Petitioner points out that during the investigation, the Petitioner, without prejudice, has already deposited Rs. 3 Lakhs with the authorities. He submits that directions be issued to adjust this amount towards the pre-deposit requirement.

10. Ms. Yadav, very fairly, does not object to such an adjustment.

11. Accordingly, we direct the adjustment as above. With this, even the requirement of a pre-deposit is now complied with.

12. Therefore, we decline to entertain this Petition qua its challenge to the impugned order dated 26 March 2024. However, we grant the Petitioner liberty to avail of the alternate remedy of appeal. Suppose the appeal is instituted within six weeks from today. In that case, the Appellate Authority is directed to consider such an appeal on merits without advertence to the issue of limitation.

13. All contentions of all parties, including those raised in this Petition, are expressly kept open. The observations, if any, in this order are made only in the context of deciding the issue of alternate remedy and therefore, these observations need not be considered by the Appellate Authority when deciding the Appeal on merits, which would include the argument based on failure of natural justice.

14. This Petition is disposed of in the above terms without any order for costs. All concerned are to act upon an authenticated copy of this order.

(Advait M. Sethna, J)

(M.S. Sonak, J.)