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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5356 OF 2025

Raigad District Security
Guards Board

...Petitioner

Versus

Union Of India Thr. Ministry of
Finance, Department Revenue &
Ors.

...Respondents

**Mr. Prasannan Namboodiri a/w. Mr. Prathibha Namboodiri i/b
Ms. Pallavi Dabak, for the Petitioner/Appellant.**

**Mrs. Maya Mazumdar a/w. Mr. Saket R. Ketkar, for the
Respondent.**

**CORAM M.S. Sonak &
 Jitendra Jain, JJ.**

DATED: 14 JULY 2025

PC:-

1. Heard learned counsel for the parties.
2. The petitioner challenges order dated 31 January 2025 by filing this Writ petition, though, clearly, the petitioner has alternate and efficacious remedy of appeal.
3. In paragraph No.11 of the petition, the petitioner has pleaded that since the impugned order is excessive, arbitrary, unreasonable, unjust, untenable, in violation of principles of natural justice, without authority of law and against judicial discipline, the same is not sustainable. The petitioner has further pleaded that for instituting appeal the petitioner

would have to pay pre-deposit of 10% of the demanded amount thereby rendering the remedy inefficacious in nature.

4. Time and again it has been held that the requirement of pre-deposit of 10% does not render the remedy inefficacious. By merely alleging that the order is in violation of principles of natural justice, the rule of exhaustion of alternate remedies cannot be bypassed. Nothing was elaborated on the aspect of natural justice.

5. Mr. Namboodiri argued that there was interim suspension of the Tribunal's judgment granted by the Hon'ble Supreme Court. Tribunal has held that the the Security Guard Board was not a statutory body and hence liable to pay service tax. The Tribunal however deleted the penalty imposed upon the Board.

6. Mr. Namboodiri submitted that this stay order was ignored while making the impugned order and this would amount to breach of judicial discipline.

7. Presently, we are not too sure whether the decision cited would apply. Besides, the Board's appeal may have been admitted but for reasons indicated in the impugned order, a particular view has been taken. It is always open to the petitioner to canvass in appeal that this view is incorrect. This is not a ground for bypassing the alternate remedy of appeal or styling this alternate remedy as any less efficacious.

8. There is an increased tendency of instituting petitions bypassing alternate remedies. In *Oberoï Constructions Ltd. vs. The Union of India & Ors., Writ Petition (L) No.33260 of 2023 dated 11 November 2024* this Court has considered

several precedents on the subject of exhaustion of alternate remedies. By following the reasoning in *Oberoï Constructions Limited (supra)* and the several precedents of the Hon'ble Supreme Court referred to therein, we decline to entertain this petition.

9. Recently, in *Bank of Baroda vs. Farooq Ali Khan, (2025) 171 taxmann.com 643 (SC)* the Hon'ble Supreme Court held that High Court incorrectly exercised its writ jurisdiction as it precluded the statutory mechanism and procedure provided under Insolvency and Bankruptcy Code by way of alternate remedy. The Court held where specialized tribunals or adjudicating authorities are created by a statute, High Court should not substitute themselves as the decision making authority while exercising the powers of judicial review.

10. However, we leave it open to petitioner to avail of the alternate remedy. All contentions on merits are left open.

11. Petition dismissed. No order as to cost.

(Jitendra Jain, J)

(M.S. Sonak, J)