

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 4353 OF 2024

Monitron Security Pvt Ltd	...Petitioner
Versus	
Union Of India	...Respondent

Mr. Gajendra Jain, a/w Rajesh Oswal i/b. Sriram Sridharan,
for Petitioners.

Ms. Vaishnavi Tathe, a/w Harshad Shinganpurkar, h/f Adv.
Maya Majumdar, i/by Harshad Shingnapurkar, for
Respondent.

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

DATED : 09 December 2025

P.C.:-

1. Heard learned counsel for the parties.
2. This is yet another petition where the petitioner, chooses to bypass the alternate remedy and challenge the order in original dated 28 June 2024 by directly instituting this petition.
3. The only contention in support of bypassing this alternate remedy is that the impugned order is contrary to the mandate of Section 73(4B) of the Finance Act and therefore, the same is without jurisdiction.

4. The learned counsel for the petitioner states that in addition to this ground, several other grounds have also been raised to challenge the impugned order.

5. Therefore, this is not a case where the petitioner is only pressing the ground of bar of limitation. By raising such a ground, the petitioner is trying to convert this Court into the first appellate authority. That is not permissible.

6. The issue as to whether the bar of limitation is attracted or not, it involves mixed question of law and fact. No exceptional case has been made out to bypass the alternate remedy and directly approach this Court.

7. In the case of **Oberoai Construction Ltd Vs. Union of India**¹ and other connected matters, we have considered the law on the issue of exhaustion of alternate remedies, wherein, we have referred to several precedents from the Hon'ble Supreme Court on this issue. Relying upon our reasoning in the said decision and the precedents referred to therein, we decline to entertain this petition, leaving it open to the petitioner to avail of the alternate statutory remedy.

8. Accordingly by following the reasoning in the above decision and precedents refer to therein, we decline to entertain this petition. We dismiss this petition with liberty to the petitioner to appeal against the order in original after complying with all legal formalities including that of pre-deposit.

¹. Writ Petition (L) No. 33260 of 2023 decided on 11 November 2024.

9. All contentions of all parties on merits are however left open.

10. Learned counsel for the petitioner states that an appeal would be file within four weeks from the date of uploading of this order. He request that some orders may be made with regard to the limitation period because the petitioner, based on legal advice was bonafide pursuing this petition before this Court.

11. If appeal is indeed filed within four weeks after complying with all legal formalities including pre-deposit, the appellate authority is directed to entertain the appeal on merits without adverting to the limitation issue.

(Advait M. Sethna, J)

(M.S. Sonak, J.)