

Sayali

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

WRIT PETITION NO. 3975 OF 2025

**SAYALI
DEEPAK
UPASANI**

Naren Gedia

...Petitioner

Versus

Union of India and Others

...Respondents

Digitally signed by
SAYALI DEEPAK
UPASANI
Date: 2025.11.20
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**Mr Ashok Singh with Vipul Patel i/b Haresh Mehta, for
Petitioner.**

**Mr Jitendra B. Mishra, with Sangeeta Yadav, Rupesh Dubey,
for Respondents.**

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

DATED: 18 NOVEMBER 2025

PC:-

1. Heard the learned Counsel for the parties.
2. As against the impugned order in original, the Petitioner has an alternate statutory remedy of an Appeal. In Paragraph Nos. 16 and 18, the Petitioner made the following statements in the context of an alternative remedy:-

“16. In light of the above, the Petitioner has had no choice but to approach this Hon'ble Court under Article 226 of the Constitution of India, 1950, for appropriate reliefs. The Petitioner does not have any alternate or efficacious remedy except for this writ petition.

.....

18. The Petitioner submits that the impugned order has been passed in violation of principle of natural justice by ignoring factual as well as legal position in utter disregard to the settled position of law. The Petitioner submits that the reliefs claimed herein, if granted, would afford complete relief to him.”

3. On the aspect of violation of natural justice, no submissions were advanced before us. The learned Counsel for the Petitioner submits that in all 37 matters, penalties have been imposed on the Petitioner. He submitted that, in most cases, the exports were made by other parties, yet penalties have been imposed on the Petitioner.

4. Based on the above submissions and arguments, no case has been made to deviate from the usual practice of requiring the parties to exhaust the statutory remedies. To assess this contention, we will need to examine the factual issues and records. We believe that it would be appropriate for all such contentions, involving disputed questions of fact, to be first considered by the Appellate Authority in terms of the statutory remedy provided under the Act. Furthermore, none of the usual exceptions that justify bypassing the principle of alternative remedy are applicable in this case.

5. In this regard, we rely on the decision in **Oberoio Constructions Ltd v Union of India & Ors¹**. Therein, we have discussed the legal position on the exhaustion of alternative remedies. We have also relied upon several decisions of the Hon’ble Supreme Court on this issue. Therefore, following the

¹ 2024 SCC OnLine 3508

reasoning in *Oberoi Constructions Ltd (supra)* and the decisions referred to therein, we decline to entertain this Petition.

6. However, if the Petitioner files an Appeal within six weeks from today, after fulfilling all legal formalities such as pre-deposit, then we direct the Appellate Authority to consider such Appeal on its merits without considering the issue of limitation. This is because the learned Counsel for the Petitioner solemnly states that this Petition was filed within the limitation period prescribed for filing an Appeal against the impugned order.

7. All contentions of all parties on the merits, however, remain open because we have declined to examine them.

8. This Petition is disposed of with liberties in the above terms. No costs. All concerned must act on an authenticated copy of this order.

(Advait M. Sethna, J)

(M.S. Sonak, J)