



MAJESTY LEGAL

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Mere availability of an alternative remedy would not oust the writ jurisdiction

(M/S GODREJ SARA LEE LTD. VS. THE EXCISE AND TAXATION OFFICER CUM-ASSESSING AUTHORITY AND ORS.¹)

The Supreme Court in the present Civil Appeal has observed that it is not proper to dismiss a writ petition on the ground of alternative remedy without examining whether an exceptional case has been made out for such entertainment or not.

RULINGS OF HON'BLE COURT:

- The power to issue prerogative writs under Article 226 is plenary in nature. Any limitation on the exercise of such power must be traceable in the Constitution itself.
- Article 226 does not, in terms, impose any limitation or restraint on the exercise of power to issue writs as the “Entertainability” and “Maintainability” of a writ petition are distinct concepts.
- Court has made it clear that availability of an alternative remedy does not operate as an absolute bar to the “Maintainability” of a writ petition and that the rule, which requires a party to pursue the alternative remedy provided by a statute, is a rule of policy, convenience and discretion rather than a rule of law.
- The High Court should normally not entertain a writ petition, where an effective and efficacious alternative remedy is available and at the same time where the controversy is a purely legal one and it does not involve disputed questions of fact but only questions of law, then it should be decided by the High Court instead of dismissing the writ petition on the grounds of an alternative remedy being available.

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¹ Civil Appeal No. 5393 of 2010

² Majesty legal is a law firm established in 2013 by Ms. Mahi Yadav. Objective of this evaluation of the Judgement is to provide insights on law and statutes, that are personal in nature and not to be deemed as legal advice.