IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 14616 OF 2025

Nikhil Garg S/o Vishnu Prasad Garg ... Petitioner

Versus

Union of India And Anr. ... Respondents

WITH
WRIT PETITION NO. 15576 OF 2025

Navkar Gold And Anr. ... Petitioners

Versus

Union of India And Anr. ... Respondents

Mr. Brijesh Pathak a/w Ms. Vaishnavi Murkute, Ms. Aditi Ravidas, for Petitioner/s.
Mr. Karan Adik a/w Ms. Sangeeta Yadav, for Respondents.

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

DATED : 24 November 2025

ORAL JUDGMENT *(Per – M. S. Sonak, J.)* **:-**

1. Heard Mr Brijesh Pathak, who appears along with Ms Vaishnavi Murkute and Ms Aditi Ravidas for the Petitioners, and Mr Karan Adik, who appears along with Ms Sangeeta Yadav for the Respondents.

2. Mr. Pathak states that both these Petitions could be disposed of by a common order, by treating Writ Petition No. 15576 of 2025 as the lead Petition.

3. In both these Petitions, the challenge is to the Order-in-Original dated 03 September 2025, against which the Customs Act has provided a statutory appeal.

4. The Petitioners claim that the remedy of appeal is not efficacious. For this, Mr. Pathak refers to paragraph 4.15 in Writ Petition No. 15576 of 2025, which reads as follows: -

> *"4.15 Though Appellate remedy has been provided under the Customs Act, the impugned proceedings having been conducted without jurisdiction and also in gross violation of principles of natural justice and fair play in quasi-judicial proceedings, rejecting the request for cross-examination of persons. There has been flagrant violation of mandatory provisions of the Customs Act, which has vitiated the entire proceedings, thereby breaching the fundamental right of the Petitioner No.2 under Article 14, 19(1)(g)."*

5. After referring us to the above paragraph, Mr Pathak submitted that the ground about rejecting cross-examination was not the main point, but the main point was that none of the Petitioners' contentions or documents in reply to the show cause notice were considered by the Adjudicating Authority. He relied on this Court's decision in the case of **GlobeOp Financial Services (India) Pvt. Ltd. Vs. Deputy Commissioner of State Tax, Mumbai**[1] to submit that non-consideration of the noticee's contentions or documents would also amount to a violation of the principle of natural justice and fair play.

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[1] 2025 32 Sentax 383 (Bom.)

6. In our Judgment, based on the above ground or contention, the Petitioners cannot bypass the rule of exhaustion of an alternative remedy.

7. The issue of alleged denial of cross-examination, as a reason for bypassing the alternative remedy, has not been strongly argued. The impugned order in this case spans almost 335 pages. Even if we accept Mr. Pathak's claim that most of the paragraphs reproduce the show cause notice and only about 30 pages of this order address the merits of the case, we still find, upon reviewing the order, that the Adjudicating Authority has either considered the Petitioner's arguments or taken into account relevant documents provided by the Petitioner in response to the show cause notice. We hesitate to go into further detail on this matter, as doing so might prejudice the Petitioners' right to appeal before the Appellate Authority.

8. However, from the perusal of the impugned order, we are not satisfied that this is a fit case where the practice of exhaustion of an alternate remedy must be bypassed, and this Court should entertain the Petition.

9. The real reason for directly instituting this Petition has emerged only later, when Mr Pathak submitted that the Petitioner will not be able to comply with the pre-deposit requirement mandated by an Appeal. The requirement of pre-deposit is held to be mandatory, and, in any event, there is hardly any material on record to sustain such a plea made across the bar.

10. This is also a case where a prima facie untenable plea of violation of natural justice was sought to be projected only to avoid compliance with the requirement of pre-deposit. The extraordinary and equitable jurisdiction of this Court cannot be invoked by such pleas.

11. The factual situation in *GlobeOp* (supra) was by no means comparable to that in the present matter. There, almost none of the contentions or documents put forth by the Petitioner were either referred to or considered by the Adjudicating Authority. The fact situation in the present case is quite different. Here, by a detailed order, the adjudication proceedings have been disposed of. Whether the final decision is well merited is an issue the Petitioner can always challenge in a statutory appeal provided for by law. No extraordinary case has been made out for bypassing the rule of the alternate remedy.

12. The impugned order, at paragraph 65.4, records that this case "*involves a massive network of individuals and firms engaged in the illegal import of gold, diamonds, and other precious stones through a complex system of fraudulent financial transactions and dummy companies.*" Further, at paragraph 65.18, the impugned order records that the Petitioner in Petition No. 14616 of 2025 "*has played a significant role in the elaborate conspiracy that facilitated the* *illegal import of smuggled gold and laundering of vast sums of money*". The impugned order records that he "*actively assisted in enabling overseas remittances amounting to Rs.414 crores, which were falsely shown as payments for importing services but were actually used to pay for smuggled gold and other precious stones".* The order records that as a hawala operator, the Petitioner "*helped route and layer these funds through various fake companies and multiple bank accounts, thereby obscuring their illicit origin*". This paragraph notes that Mr. Garg's involvement was crucial in helping the syndicate evade customs duties and regulatory checks, "*ultimately supporting one of the largest gold smuggling and trade-based money laundering operations uncovered by customs authorities".*

13. Insofar as the Petitioner in Writ Petition No. 15576 of 2025 is concerned, the impugned order records the following findings:-

> *"65.6 I observe that M/s. Navkar Gold, operated through its partner Shri Hemant Kumar Pokharna, was actively involved in purchasing smuggled gold and integrating it into the formal bullion trade. Between February 2019 and February 2023, the firm acquired around 65 kilograms of smuggled gold, worth approximately Rs. 28.6 crores, by obtaining bogus invoices from dummy firms such as M/s Padmavati Gold, M/s Tanvi Gold Pvt. Ltd., M/s Gyanesh Jewel Gold, and M/s Trinity International. These invoices were used to falsely show legitimate transactions in their books. The firm then routed payments into bank accounts of these non-existent or paper entities, which were later rotated through various banking channels and eventually transferred to offshore accounts. This entire process was*

> *designed with the ulterior motive of funding illegal imports of gold, diamonds, and other precious stones. By participating in this circular flow of funds and by accepting smuggled gold into its business, M/s Navkar Gold became a key cog in the larger network of gold smuggling and money laundering, ultimately helping to disguise the illicit origins of the gold and evade customs duties."*

14. Again, we clarify that we are not commenting on whether the above findings are correct. That is a matter which the Petitioners will have to agitate before the Appellate Authority. We have only referred to the above findings to demonstrate how hollow the claims of the Petitioners are of being unable to afford to make a pre-deposit should they be relegated to resort to the appellate remedy.

15. Of late, there is an increased tendency to institute Petitions directly before this Court by making false and frivolous averments. In most cases, arguments are advanced without the backing of any pleadings to sustain the same, only to take a chance and, if possible, secure some interim orders. The Petitioners are aware of the pressure on this Court's docket, and it is often increasingly difficult to take up all the listed matters. In this manner, the interim reliefs once obtained tend to continue for a considerable period of time.

16. Mr Adik points out that Piyush Tarawat, a Chartered Accountant, who was also alleged to have been involved in this very gold and precious stones smuggling racket, had instituted Writ Petition No. 6980 of 2025. The plea taken by him was that he has no means to comply with the requirement of a 7.5% pre-deposit, which amounted to approximately Rs. 2.10 crores in the case of the said Chartered Accountant. On the ground that there was no material whatsoever to support such a plea and further, because, despite giving the said Petitioner an opportunity to file an affidavit, an affidavit, concealing much more than what was disclosed was filed before this Court, we dismiss the Petition.

17. In this case, apart from a bare statement that the Petitioners are unable to comply with the pre-deposit requirement, no other material has been placed on record to substantiate such a statement. This plea was argued only after we expressed our view that we were not impressed by the plea of natural justice. Accordingly, based upon such pleadings backed by no material whatsoever, we consider the institution of these Petitions an abuse of the Court process.

18. In the case of **Khemchand Uttamchand Bhojwani Vs. The Assistant Commissioner of Income Tax**[2], by following the *Oberoi Constructions Ltd.* (supra), we had declined to entertain the Writ Petition based on vague allegations of breach of principles of natural justice or incapacity to comply with the pre-deposit requirements. This order was challenged by the Petitioner before the Hon’ble Supreme Court, and the Special Leave Petition (C) Diary No. 43614 of 2025 was dismissed.

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2 Writ Petition No. 15376 of 2024, dated 21/04/2025

19. In the case of **Oberoi Constructions Ltd. Vs. Union of India And Ors.**[3], this Court, examined the issue of exhaustion of alternate remedies in great details. Relying on the reasoning in the said decision and the reasoning in the several precedents referred to therein, we are satisfied that no case is made out to deviate from the practice of exhaustion of alternate remedies in both these Petitions.

20. Recently, in the case of **Rikhab Chand Jain Vs. Union of India And Ors.**[4]**,** the Hon'ble Supreme Court has reiterated the position that High Courts should not entertain Writ Petitions under Article 226 of the Constitution, when alternate and efficacious remedies under the statute are available to such Petitioners. The exceptions in this regard have also been considered. To bring the case within the exceptions, the present Petitioners have tried to argue a case that was not even pleaded, apart from giving up the case, which was cursorily pleaded. To deviate from the normal practice of exhaustion of alternate remedies, the Petitioners must make out an exceptional case as was held by the Hon'ble Supreme Court in case of *Rikhab Chand Jain* (supra). Such a case must be supported by proper pleadings and material.

21. Accordingly, for all the above-said reasons, we dismiss the Petitions with costs of Rs. 50,000/- in each Petition. Said costs should be paid to the Maharashtra Legal Services

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3 2024 SCC OnLine 3508

4 Civil Appeal No. 6719 of 2012 decided on 12/11/2025

Authority, within four weeks from the date of uploading of this order.

22. All concerned to act on an authenticated copy of this order.

(Advait M. Sethna, J.) **(M.S. Sonak, J.)**