



2026:CGHC:19083

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HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 612 of 2022

1 - Vritpal Sindhu S/o Shri Mitrasen Sindhu Aged About 56 Years Managing / Authorised Partner - M.S. And Sons, Resident Of 53-55, Section 14, Sindhu Bhawan, Rohtak, Haryana- 124001.

2 - Veersen Sindhu S/o Shri Mitrasen Sindhu Aged About 61 Years Managing / Authorised Partner - M.S. And Sons, Gevra Project, Dipka 1, Garud Nagar Dipka, Korba District, Chhattisgarh - 495452.

--- **Petitioner(s)**

versus

1 - Amit Agrawal S/o Shri Naresh Agrawal Aged About 34 Years C/o Maa Banjari Enterprises And Logistics, Priyadarshi Complex, Chhatamuda By- Pass, Tehsil And District Raigarh, Chhattisgarh – 496001.

2 - Dev Sindhu Managing / Authorised Partner - M.S. And Sons, Plot No. 11, Khand No. 251/664, Himgir Road, Kanika, Sundargarh District Odisha - 770075.

3 - Pradeep Mor Managing / Authorised Partner - M.S. And Sons, Plot No. 11, Block No. 251/664, Himgir Road, Kanika, Sundargarh District Odisha - 770075.

4 - Abhimanyu Sindhu Managing / Authorised Partner - M.S. And Sons, Post Khanda Kheri, Tehsil Hansi, Hisar District Haryana., District : Hisar, Haryana

5 - Rudra Sen Sindhu Managing / Authorised Partner - M.S. And Sons, Sindhu Tradelinks Limited, 129 Transport Centre, Rohtak Road, Pubjabi Bagh, New Delhi- 110035

6 - Satyapal Sindhu Managing / Authorised Partner - M.S. And Sons, Sindhu Tradelinks Limited, 129 Transport Centre, Rohtak Road, Punjabi Bagh, New Delhi - 110035.

7 - Parameshwari Sindhu Managing / Authorised Partner - M.S. And Sons, Post Khanda Kheri, Tehsil Hansi, Hisar District Haryana.

--- **Respondent(s)**

WPC No. 664 of 2022

1 - Vritpal Sindhu S/o Shri Mitrasen Sindhu Aged About 56 Years Managing/authorised Partner- M.S. And Sons, R/o 53-55, Section 14, Sindhu Bhawan, Rohtak, Haryana-124001.

2 - Veersen Sindhu S/o Shri Mitrasen Sindhu Aged About 61 Years Managing/authorised Partner- M.S. And Sons, Gevra Project, Dipka 1, Garud Nagar Dipka, Korba District, Chhattisgarh-495452.

---Petitioner(s)

Versus

1 - Prateek Agrawal S/o Shri Vijay Kumar Agrawal Aged About 32 Years Partner- Trishul Enterprises, R/o Gandhi Ganj, Tehsil And District- Raigarh, Chhattisgarh-496001.

2 - Dev Sindhu Managing/authorised Partner- M.S. And Sons, Plot No. 11, Khand No. 251/664, Himgir Road, Kanika, Sundargarh District, Odisha- 770075.

3 - Pradeep More Managing/authorised Partner- M.S. And Sons, Plot No. 11, Block No. 251/664, Himgir Raod, Kanika, Sundergarh District, Odisha- 770075.

4 - Abhimanyu Sindhu Managing/authorised Partner- M.S. And Sons, Post Khanda Kheri, Tehsil Hansi, Hisar District Haryana.

5 - Rudra Sen Sindhu Managing/ Authorised Partner/ M.S. And Sons, Sindhu Tradelinks Limited, 129 Transport Centre, Rohtak Road, Pubjabi Bagh, New Delhi-110035.

6 - Satyapal Sindhu Managing/authorised Partner- M.S. And Sons, Sindhu Tradelinks Limited, 129 Transport Centre, Rohtak Road, Punjabi Bagh, New Delhi- 110035.

7 - Parameshwari Sindhu Managing/authorised Partner- M.S. And Sons, Post- Khanda Kheri, Tehsil Hansi, Hisar District, Haryana.

--- Respondent(s)

For Petitioners	:	Shri Amrito Das, Advocate.
For Respondent No.1	:	Ms. Aprajita Pandey appears on behalf of Shri Harshwardhan Agrawal, Advocates.

Hon'ble Mr. Justice Amitendra Kishore Prasad
Order on Board

25/04/2026

1. Since dispute involved in both the petitions is common, they are being disposed of by this common order.

2. WPC No.612 of 2022 has been filed against the order dated 27.10.2021 passed

by the District Consumer Disputes Redressal Commission, Raigarh C.G. in case No.CC/2020/172 whereby the petitioners and Respondent Nos.2 to 7 were directed to pay total amount of Rs.24,61,852/- to the Respondent No.1 inclusive of Rs.5,000/- towards mental agony and Rs.1,000/- towards litigation expenses.

3. Similarly WPC No.664 of 2022 has been filed against the order dated 27.10.2021 passed by the District Consumer Disputes Redressal Commission Raigarh Chhattisgarh in case No.CC/2020/171 whereby the petitioners and Respondent Nos.2 to 7 were directed to pay total amount of Rs.45,91,070 to the Respondent No.1.
4. The said amount was directed to be paid within a period of 45 days from the date of impugned order.
5. For the purposes of disposal, facts pleaded in WPC No.612 of 2022 will be referred to. The petitioners are the Managing Partners of the firm which goes by the name of M.S. & Sons. The said firm is in the business of coal handling and has its washery/depot located at Hemgir, Odisha. From 04.09.2018 to 19.03.2019, coal was transported from washery / depot of M.S. & Sons, which is at Hemgir, Odisha to TRN ACB (India) Ltd. at Navapara, Gharghoda, Raigarh. In the said period, the Respondent No.1 provided transportation logistics to the petitioners for which the Respondent No.1 was to receive the corresponding consideration amount. For the aforementioned transportation logistics provided by the respondent No.1, the respondent No.1 purportedly furnished invoices to the petitioners from time to time. Respondent No.1 allege that the invoices collectively amounted to INR 66,44,798/- out of which, INR 41,88,964/- has been paid by the petitioners. Consequently, an amount of INR 24,55,852/- purportedly stood outstanding. On 01.10.2020, the respondent No.1, through his

Advocates, issued a notice to the petitioners which *inter alia* called upon the petitioners to pay within 7 days, the outstanding amount of INR 24,55,852/- along with INR 5,00,000/- (Rupees Five Lakh only) as compensation for damages. Pursuant to the notice dated 01.10.2020, in order to recover the outstanding amount from the petitioners, respondent preferred a complaint dated 19.10.2020 (hereinafter referred to as "Complaint") before the District Consumer Disputes Redressal Commission, Raigarh under Section 35(1) of the Consumer Protection Act, 2019 (hereinafter referred to as the "Act"). In the Complaint, the Respondent No.1 prayed *inter alia* that the District Consumer Disputes Redressal Commission, Raigarh direct the Petitioners to (a) pay the outstanding amount of INR 24,55,852/- and (b) pay the amount of INR 5,00,000/- as compensation for the respondent being mentally, physically and monetarily aggrieved owing to deprivation of the outstanding amount. On 01.09.2021, the petitioners filed preliminary objections to the Complaint and submitted that in the facts and circumstances and in terms of the Act, the petitioners can neither be classified as a "consumers" as per Section 2(7) of the Act nor as provider of good or services and therefore, the Complaint preferred by present respondent No.1 before the District Consumer Disputes Redressal Commission, Raigarh was not a consumer complaint as defined under Section 2(6) of the Act. Additionally, the preliminary objections stated that the arrangement entered into between the entities of petitioners and the respondent No.1 i.e., M.S. & Sons and Maa Banjari Enterprises and Logistics respectively, was commercial in nature and therefore, the instant dispute is not a consumer dispute. In view of the preliminary objections dated 01.09.2021 filed by the present petitioners before District Consumer Disputes Redressal Commission,

Raigarh, a reply was filed on behalf of the respondent on 21.09.2021 denying the contentions of the petitioners in the preliminary objections. The petitioners, on 27.10.2021, filed written submissions before the District Consumer Disputes Redressal Commission, Raigarh, stating *inter alia* that the respondent No.1 does not fall within the definition of consumer under Section 2(7) of the Act; the amount realized by the respondent No.1 through providing transportation logistics stems from a commercial arrangement between the petitioners and the respondent No.1 and consequently, would be categorized under "commercial purpose" which served as an exception to the definition of consumer as per Section 2(7) of the Act; and that the instant proceedings before District Consumer Disputes Redressal Commission, Raigarh lie before a competent court since the proceedings pertain to recovery of outstanding amount. The District Consumer Disputes Redressal Commission, Raigarh proceeded and passed the final order dated 27.10.2021 (hereinafter referred to as the "impugned order") whereby INR 24,55,852/- towards the outstanding dues to the respondent No.1, INR 5,000/- towards compensation for mental agony suffered by the respondent No.1 and INR 1,000/- towards the litigation costs borne by the respondent No.1 and all the aforementioned costs were directed to be paid within 45 days of the date of the impugned order. Subsequently, on 06.12.2021, petitioners preferred a revision application which came to be registered as RP/21/03 of 2021 under Section 47(1)(b) of the Act before the Chhattisgarh State Consumer Disputes Redressal Commission against the impugned order. Thereafter, in accordance with the request of the Advocate for the Petitioner Nos. 1 and 2, the Chhattisgarh State Consumer Disputes Redressal Commission vide order dated 28.12.2021 dismissed the revision

application dated 06.12.2021 with the liberty to the Petitioner Nos. 1 and 2 to prefer an appeal in accordance with the prescribed procedure under the Act. Being aggrieved by the impugned order dated 27.10.2021 (ANNEXURE P/1), the petitioners having no other recourse or remedy available for redressal of grievance; are constrained to approach this Hon'ble Court for seeking justice; by preferring a Writ Petition under Article 226 of Constitution of India.

6. Learned counsel for the petitioners submits that the District Consumer Disputes Redressal Commission, Raigarh, while passing the impugned order, failed to appreciate that the petitioners' firm had associated with the respondent No.1's firm with regard to obtaining transportation logistics in furtherance of their coal manufacturing business and therefore, the petitioners cannot be classified under the ambit of a "consumer", as defined under Section 2(7) of the Act. It is also submitted that in terms of the given commercial arrangement, the petitioners were not, in any manner whatsoever, involved in the process of providing goods or services to the respondent No.1. Therefore, the impugned order passed by the District Consumer Disputes Redressal Commission, Raigarh suffers from perversity and is bad in law and accordingly liable to be quashed and set aside.
7. Learned counsel for the petitioners submits that the District Consumer Disputes Redressal Commission, Raigarh committed grave error by not appreciating that the respondent No.1 was not a competent "consumer" to prefer a "complaint" before it. At the cost of repetition, it is reiterated that in terms of the given commercial arrangement between the petitioners' firm and the respondent No.1, the petitioners did not, in any form or manner, provide any goods or services to the respondent No.1 which would enable the respondent No.1 to assume the status of a "consumer" within the Act. The petitioners had entered into a simple

commercial understanding with the respondent No.1 whereby the respondent was to provide transportation logistics from the petitioners' coal washery/depot at Hemgir to TRN ACB (India) Ltd. at Navapara, Gharghoda, Raigarh. Therefore, in view of the present factual matrix, by no stretch of imagination can it be stated that the respondent No.1 is a "consumer" under the Act and consequently, the impugned order passed by the District Consumer Disputes Redressal Commission, Raigarh is untenable and erroneous.

8. Learned counsel for the petitioners submits that the District Consumer Disputes Redressal Commission, Raigarh, while passing the impugned order erred in overlooking the locus of the respondent No.1 qua the maintainability of the Complaint dated 19.10.2020. As evident from ANNEXURE P/3 of the present petition, the Complaint dated 19.10.2020 was preferred under Section 35(1) of the Act. It is pertinent to note here that Section 35 of the Act stipulates the manner in which a "complaint" is to be made. Further, "complaint" is defined under Section 2(6) of the Act, which *inter alia* states that the complaint "means any allegation in writing made by a complainant". Section 2(5) of the Act defines the "complainant" as hereunder:

"(5) "complainant" means -

- (i) a consumer; or
- (ii) any voluntary consumer association registered under any law for the time being in force; or
- (iii) the Central Government or any State Government, or
- (iv) the Central Authority; or
- (v) one or more consumers, where there are numerous consumers having the same interest; or
- (vi) in case of death of a consumer, his legal heir or legal representative; or
- (vii) in case of a consumer being a minor, his parent or legal guardian"

9. Learned counsel for the petitioners submits that a bare perusal of Section 2(5)

would indicate that barring Central Government or Central Authority, no party can prefer a complaint under Section 35(1) unless the party is a "consumer" under Section 2(7) of the Act. It is reiterated that there is no *iota* of doubt in stating that respondent No.1 is not a consumer and therefore, had no locus in preferring a complaint before the District Consumer Disputes Redressal Commission Raigarh. Therefore, the District Consumer Disputes Redressal Commission, Raigarh, by way of entertaining the Complaint dated 19.10.2020, acted outside the scope of its jurisdiction conferred by the Act and thus, the impugned order is unsustainable and liable to be quashed and set aside on this ground alone.

10. Learned counsel for the petitioners submits that District Consumer Disputes Redressal Commission, Raigarh erred in ignoring that in terms of the commercial arrangement between the petitioners and the respondent No.1, the respondent, through his firm, issued multiple bills/invoices whereby the respondent received the payment of the consideration amount for transportation on the business account of his transportation company namely, Maa Banjari Enterprises and Logistics (Trishul Enterprises in WPC No.664 of 2022). This implies that the Respondent No.1, in turn, utilizes the consideration amount so received towards the operations and affairs of Maa Banjari Enterprises and Logistics and Trishul Enterprises. In view of the same, there is no room for doubt that the respondent utilized the consideration amount for "commercial purpose" of his company and therefore, falls within the exception of "commercial purpose" as envisaged under Section 2(7) of the Act. Therefore, the impugned order suffers from grave perversity in considering the respondent as a "consumer".

11. Learned counsel for the petitioners submits that the District Consumer Disputes Redressal Commission, Raigarh failed in acting in consonance with the objective of the Act. The preamble of the Act states as - "An Act to provide for protection of the interests of consumers and for the said purpose, to establish authorities for timely and effective administration and settlement of consumers' disputes and for matters connected therewith or incidental thereto."
12. Learned counsel for the petitioners submits that as indicated by the preamble of the Act, the consumer fora authorities including the District Consumer Disputes Redressal Commission, Raigarh have been established to ensure "protection of interests of consumers". It is humbly submitted by the petitioners that the Complaint dated 19.10.2020 preferred by the respondent against the petitioners was in relation to recovery of outstanding amount arising out of the commercial arrangement between the petitioners and the respondent. The Petitioner submits that in such circumstances, a suit or any other proceeding for recovery of money would lie within the jurisdiction of the appropriate and/or competent court and not the District Consumer Disputes Redressal Commission, Raigarh. Therefore, the impugned order directing payment of the outstanding amount emanates from an error in exercise of jurisdiction by the District Consumer Disputes Redressal Commission, Raigarh and is liable to be quashed and set aside on this ground also.
13. Learned counsel for the petitioner submits that because not only did the District Consumer Disputes Redressal Commission, Raigarh entertained the erroneous Complaint dated 19.10.2020 filed by the respondent No.1, the District Consumer Disputes Redressal Commission, Raigarh proceeded to pass the impugned order directing the petitioners to pay the outstanding amount to the respondent

No.1. In this backdrop, the petitioners submit that not only did the District Consumer Disputes Redressal Commission, Raigarh acted outside the scope of its jurisdiction in accordance with the Act proceeded to pass the impugned order which amounts to colorable exercise of power vested with the District Consumer Disputes Redressal Commission, Raigarh by the Act. Therefore, the impugned order is liable to be quashed and set aside.

14. Learned counsel for Respondent No.1 by emphasizing on their return submits that the present case is squarely covered by the judgment dated 27.03.2024 passed in WA No.140 of 2024 by this Court wherein, the division Bench upheld the order dated 23.02.2024 of Single Judge passed in WPC No.1092 of 2024, whereby, learned Single Judge in view of the fact that petitioner has efficacious alternate remedy to prefer an appeal before the C.G. State Consumer Disputes Redressal Commission, Raipur according to the provisions of Section 47 of the Act, 2019, dismissed the writ petition as non maintainable.

15. Learned counsel for Respondent No.1 submits that after passing of impugned award, the petitioner approached the State Commission by filing revision which was dismissed as being not maintainable, however, liberty was reserved in favour of the petitioners to file appeal under the provision of law. Despite of filing an appeal, the petitioners have filed this petition which is liable to dismissed being not maintainable in view of alternate remedy of appeal available to the petitioner.

16. I have heard learned counsel for the parties and perused the material available with the petition carefully.

17. The petitioners are the Managing Partners of M.S. & Sons, a firm engaged in coal handling, with a washery/depot located in Hemgir, Odisha. From

04.09.2018 to 19.03.2019, coal was transported from the petitioners' washery to TRN ACB (India) Ltd. at Navapara, Gharghoda, Raigarh. The respondent No.1 provided transportation logistics services for the petitioners, for which they were to be compensated through invoices. According to the respondent No.1, the total amount due from the petitioners for the transportation services provided was INR 66,44,798/-, of which INR 41,88,964/- had already been paid, leaving an outstanding balance of INR 24,55,852/-.

18. On 01.10.2020, the respondent No.1 issued a notice demanding the outstanding amount of INR 24,55,852/- along with INR 5,00,000/- as compensation for damages. When the petitioners failed to pay, the respondent No.1 filed a complaint before the District Consumer Disputes Redressal Commission, Raigarh, on 19.10.2020, seeking recovery of the outstanding amount and compensation for the alleged damages. The District Consumer Disputes Redressal Commission, Raigarh, passed the impugned order on 27.10.2021, directing the petitioners to pay the outstanding dues of INR 24,55,852/- along with INR 5,000/- as compensation for mental agony and INR 1,000/- towards litigation costs.

19. What mainly lies for consideration before this Court is as to whether complaint as filed by Respondent No.1 before District Consumer Disputes Redressal Commission was maintainable or not ?, and further whether the plea of Respondent No.1 that petitioners have alternative remedy of appeal has substance or not ?

20. At first, this Court would deal with the question of alternative remedy of appeal being available to the petitioner.

21. In this regard, it would be apt to go through the catena of decisions by the Hon'ble Supreme Court.

22. In the matter of **Whirlpool Corpn. v. Registrar of Trade Marks, (1998) 8 SCC**

1, the Hon'ble Supreme Court held in paragraphs Nos.15 & 16 as under:-

15. Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction. But the alternative remedy has been consistently held by this Court not to operate as a bar in at least three contingencies, namely, where the writ petition has been filed for the enforcement of any of the Fundamental Rights or where there has been a violation of the principle of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged. There is a plethora of case-law on this point but to cut down this circle of forensic whirlpool, we would rely on some old decisions of the evolutionary era of the constitutional law as they still hold the field.

16. Rashid Ahmed v. Municipal Board, Kairana [1950 SCC 221 : AIR 1950 SC 163 : 1950 SCR 566] laid down that existence of an adequate legal remedy was a factor to be taken into consideration in the matter of granting writs. This was followed by another Rashid case, namely, K.S. Rashid & Son v. Income Tax Investigation Commission [AIR 1954 SC 207 : (1954) 25 ITR 167] which reiterated the above proposition and held that where alternative remedy existed, it would be a sound exercise of discretion to refuse to interfere in a petition under Article 226. This proposition was, however, qualified by the significant words, "unless there are good grounds therefor", which indicated that alternative remedy would not operate as an absolute bar and that writ petition under Article 226 could still be entertained in exceptional circumstances.

23. The Hon'ble Supreme Court in the matter of **Hukum Chandra vs. Vivek Singh**

in **CA No.23775 of 2003** vide order dated 09.02.2004 held in paragraph No.2

as follows:-

2. A petition filed in the High Court seeking relief under Article 226 or 227 of the Constitution of India was entertained in the year 1993 by the then High Court of Allahabad. Consequent upon re-organisation of the State of Uttar Pradesh, the matter came to be transferred to the High Court of Uttaranchal at Nainital. On 24.11.2003, when the matter came up for hearing, the High Court formed an opinion that an alternate efficacious remedy of filing a revision as provided by Section 18 of Uttar Pradesh Urban Buildings (Regulations on Letting, Rent and Eviction) Act, 1972 was available to the appellant, the petition did not lie. The petitioner in the High Court had explained in his petition the circumstances in which it was impracticable then to file the revision and therefore the writ jurisdiction of the High Court was being invoked. That explanation had found favour with the High Court while admitting the petition and issuing rule. After the matter had remained pending for little over 10 years, the High Court was not justified in dismissing the writ petition solely on the ground of availability of an alternative remedy. Availability of an alternate efficacious remedy does not implicitly and necessarily take away the jurisdiction of the High Court to hear a writ petition and exclusion of exercise of writ jurisdiction on account of availability of alternate remedy is a rule of discretion.

24. Further, in the matter of **Godrej Sara Lee Ltd. v. Excise and Taxation Officer-cum-Assessing Authority and Others**, {2023 SCC OnLine SC 95}, the Hon'ble Supreme Court observed in paragraphs Nos.4, 6, 7 & 8, which reads as under:-

4. Before answering the questions, we feel the urge to say a few words on the exercise of writ powers conferred by article 226 of the Constitution having come across certain orders passed by the High Courts holding writ petitions as "not maintainable" merely because the alternative remedy provided by the relevant statutes has not been pursued by the parties desirous of invocation of the writ jurisdiction. 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. Profitable reference in this regard may be made to article 329 and ordainments of other similarly worded articles in the Constitution. Article 226 does not, in terms, impose any limitation or restraint on the exercise of power to issue writs. While it is true that exercise of writ powers despite availability of a remedy under the very statute which has been

invoked and has given rise to the action impugned in the writ petition ought not to be made in a routine manner, yet, the mere fact that the petitioner before the High Court, in a given case, has not pursued the alternative remedy available to him/it cannot mechanically be construed as a ground for its dismissal. It is axiomatic that the High Courts (bearing in mind the facts of each particular case) have a discretion whether to entertain a writ petition or not. One of the self-imposed restrictions on the exercise of power under article 226 that has evolved through judicial precedents is that the High Courts should normally not entertain a writ petition, where an effective and efficacious alternative remedy is available. At the same time, it must be remembered that mere availability of an alternative remedy of appeal or revision, which the party invoking the jurisdiction of the High Court under article 226 has not pursued, would not oust the jurisdiction of the High Court and render a writ petition "not maintainable". In a long line of decisions, this 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. Though elementary, it needs to be restated that "entertainability" and "maintainability" of a writ petition are distinct concepts. The fine but real distinction between the two ought not to be lost sight of. The objection as to "maintainability" goes to the root of the matter and if such objection were found to be of substance, the courts would be rendered incapable of even receiving the lis for adjudication. On the other hand, the question of "entertainability" is entirely within the realm of discretion of the High Courts, writ remedy being discretionary. A writ petition despite being maintainable may not be entertained by a High Court for very many reasons or relief could even be refused to the petitioner, despite setting up a sound legal point, if grant of the claimed relief would not further public interest. Hence, dismissal of a writ petition by a High Court on the ground that the petitioner has not availed the alternative remedy without, however, examining whether an exceptional case has been made out for such entertainment would not be proper.

6. *At the end of the last century, this court in paragraph 15 of its decision reported in (1998) 8 SCC 1 (Whirlpool Corporation v. Registrar of Trade Marks, Mumbai) carved out the exceptions on the existence whereof a writ court would be justified in entertaining a writ petition despite the party approaching it not having availed*

the alternative remedy provided by the statute. The same read as under :

(i) where the writ petition seeks enforcement of any of the fundamental rights ;

(ii) where there is violation of principles of natural justice ;

(iii) where the order or the proceedings are wholly without jurisdiction ; or

(iv) where the vires of an Act is challenged.

7. *Not too long ago, this court in its decision reported in [2021] SCC Online SC 884 (Assistant Commissioner of State Tax v. Commercial Steel Limited)* has reiterated the same principles in paragraph 11.*

8. *That apart, we may also usefully refer to the decisions of this Court reported in (1977) 2 SCC 724 (State of U. P. v. Indian Hume Pipe Co. Ltd.)** and (2000) 10 SCC 482 (Union of India v. State of Haryana). What appears on a plain reading of the former decision is that whether a certain item falls within an entry in a sales tax statute, raises a pure question of law and if investigation into facts is unnecessary, the High Court could entertain a writ petition in its discretion even though the alternative remedy was not availed of ; and, unless exercise of discretion is shown to be unreasonable or perverse, this Court would not interfere. In the latter decision, this court found the issue raised by the appellant to be pristinely legal requiring determination by the High Court without putting the appellant through the mill of statutory appeals in the hierarchy. What follows from the said decisions is that where the controversy is a purely legal one and it does not * (2021) 93 GSTR 1 (SC). ** (1977) 39 STC 355 (SC) 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 ground of an alternative remedy being available.*

25. Recently, in the matter of the **Utkal Highways Engineers and Contractors**

Versus Chief General Manager and Others {2025 SCC OnLine SC 1400} the

hon'ble Supreme Court held in paragraph No.8 as follows:-

8. *Be that as it may, the High Court has not dealt with the merits of the writ petition. Moreover, it is not an inviolable rule that no money claim can be adjudicated upon in exercise of writ*

jurisdiction. Non-payment of admitted dues, inter alia, may be considered an arbitrary action on the part of respondents and for claiming the same, a writ petition may lie.¹ Further, throwing a writ petition on ground of availability of alternative remedy after 10 years, particularly, when parties have exchanged their affidavits, is not the correct course unless there are disputed questions of fact which by their very nature cannot be adjudicated upon without recording formal evidence.

26. The Bombay High Court also in the matter of **Govind Dewaji Chavan v.**

Wasudeo Ambadas Bhusate and Others, 2018 SCC OnLine Bom 6613 held

in paragraphs Nos. 8, 9 and 11, which reads as under:-

8. A preliminary objection regarding the Writ Petition not being maintainable in view of existence of alternative remedy needs to be considered first. It is the case of the petitioner that there was violation of principles of natural justice in the present case because the petitioner was never made party in the proceedings before the District Consumer Forum. It was submitted, in such a situation, it has been held by Courts that a Writ Petition could be entertained by this Court. There is no doubt about the fact that the impugned order passed by the District Consumer Forum can be made subject matter of challenge in appeal before the State Consumer Commission under the provisions of the said Act. But, the facts of the present case show that the petitioner was never made party in the complaint filed by respondent Nos. 1 and 2. The opposite party No. 4 (respondent No. 6 in this Writ Petition) was the Assistant Director of Town Planning, Yavatmal in the official capacity. The person holding the said office did file the reply and denied the allegations made by respondent Nos. 1 and 2 in respect of map drawn on 5-4-1991. But, the petitioner was never party before the District Consumer Forum and yet the entire liability was foisted on him. Thus, there was clear violation of the principles of natural justice in the present case when the impugned order was passed.

9. In the case of Committee of Management v. Vice-Chancellor reported at (2009) 2 SCC 630, while considering the question of maintainability of Writ Petition when alternative remedy is available, the Hon'ble Supreme Court held as follows:—

“22. Apart from the fact that a statutory authority cannot consider the validity of a Statute, as has been urged before us by Mr. Chaudhari, it is beyond any doubt or dispute that availability of an

alternative remedy by itself may not be a ground for the High Court to refuse to exercise its jurisdiction. It may exercise its writ jurisdiction despite the fact that an alternative remedy is available, inter alia, in a case where the same would not be an efficacious one.

23. Furthermore, when an order has been passed by an authority without jurisdiction or in violation of the principles of natural justice, the superior Courts shall not refuse to exercise their jurisdiction although there exists an alternative remedy. In this context, it is appropriate to refer to the observations made by this Court in the case of Whirlpool Corporation v. Registrar of Trade Marks, Mumbai, (1998) 8 SCC 1:

“15 But the alternative remedy has been consistently held by this Court not to operate as a bar in at least three contingencies, namely, where the writ petition has been filed for the enforcement of any of the Fundamental Rights or where there has been a violation of the principle of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged.” [See also Guruvayoor Devaswom Managing Committee v. C.K. Rajan, (2003) 7 SCC 546]”

11. Thus, it is evident that when there is violation of principles of natural justice or the order of the District Consumer Forum, can be said to be without jurisdiction, a Writ Petition challenging such order of the District Consumer Forum cannot be thrown out only on the ground of existence of alternative remedy of filing appeal before the State Consumer Commission. Therefore, the preliminary objection raised on behalf of respondent Nos. 1 and 2 is rejected and the present Writ Petition is held to be maintainable.

27. In view of the aforesaid authoritative pronouncements of the Hon'ble Supreme Court in **Whirlpool Corporation v. Registrar of Trade Marks, Mumbai, Hukum Chandra v. Vivek Singh, Godrej Sara Lee Ltd. v. Excise and Taxation Officer-cum-Assessing Authority and Utkal Highways Engineers and Contractors v. Chief General Manager**, it is crystal clear that availability of an alternative remedy does not operate as an absolute bar to the exercise of writ jurisdiction under Article 226 of the Constitution of India. The rule of

alternative remedy is a rule of discretion and not one of compulsion. Where the order impugned is alleged to be wholly without jurisdiction or where the controversy involved is purely a question of law not requiring adjudication of disputed facts, the High Court would be justified in entertaining the writ petition despite availability of an appellate remedy.

28. In the present case, the core issue raised by the petitioners pertains to the very jurisdiction of the District Consumer Disputes Redressal Commission, Raigarh to entertain the complaint filed by respondent No.1. The contention of the petitioners is that the dispute arises out of a purely commercial transaction between two business entities and that respondent No.1 does not fall within the definition of “consumer” under Section 2(7) of the Consumer Protection Act, 2019. If the respondent No.1 is not a “consumer” within the meaning of the Act, the complaint itself would not be maintainable and the proceedings before the District Commission would be without jurisdiction. Such a question goes to the root of the matter and is a pure question of law.

29. Furthermore, it is not in dispute that the petitioners had initially approached the State Commission by way of a revision which was dismissed as not maintainable, with liberty to file an appeal. The impugned order is thus directly under challenge before this Court on the ground of lack of jurisdiction. In such circumstances, relegating the petitioners to avail the alternative remedy of appeal would not be appropriate, particularly when the issue raised strikes at the very competence of the District Commission to entertain the complaint.

30. In light of the settled legal position as enunciated in the aforesaid judgments, this Court is of the considered opinion that the present writ petitions are

maintainable despite availability of the statutory remedy of appeal under the Consumer Protection Act, 2019. The preliminary objection raised by respondent No.1 with regard to availability of alternative remedy, therefore, deserves to be rejected.

31. Accordingly, it is held that the writ petitions are maintainable and this Court proceeds to examine the issue regarding maintainability of the complaint before the District Consumer Disputes Redressal Commission on merits.

32. Section 2(7) of the Consumer Protection Act, 2019 defines "consumer" as a person who buys goods or hires services for personal use, and not for commercial purposes. In this case, the petitioners entered into a commercial arrangement with the respondent No.1 for transportation logistics. The respondent No.1, through his firm, Maa Banjari Enterprises and Logistics and Trishul Enterprises respectively, issued invoices for the services provided, and the payments made by the petitioners were for the commercial purpose of running the transportation business. Therefore, the respondent No.1's claim falls within the "commercial purpose" exception under Section 2(7) and does not qualify as a consumer dispute.

33. At the expense of repetition, Section 2 (5) of the Act reads as under:-

(5) "complainant" means-

(i) a consumer; or

(ii) any voluntary consumer association registered under any law for the time being in force; or

(iii) the Central Government or any State Government; or

(iv) the Central Authority; or

(v) one or more consumers, where there are numerous consumers having the same interest; or

(vi) in case of death of a consumer, his legal heir or legal representative; or

(vii) in case of a consumer being a minor, his parent or legal guardian;

34. Additionally, Section 2(6) defines a "complaint" as an allegation in writing made by a "complainant," which can be any "consumer" or certain other specified entities. Given that the respondent No.1 is not a "consumer," he does not have the *locus standi* to file a complaint before the District Consumer Disputes Redressal Commission, Raigarh.
35. The Consumer Protection Act is designed to protect the interests of consumers and resolve disputes related to the provision of goods and services. The District Consumer Disputes Redressal Commission, Raigarh, does not have the jurisdiction to entertain disputes that arise from commercial arrangements, such as the one between the petitioners and the respondent No.1. A suit for recovery of money in such circumstances lies within the jurisdiction of a competent civil court, not a consumer forum.
36. The District Consumer Disputes Redressal Commission, Raigarh, erred by failing to appreciate that the dispute between the petitioners and the respondent No.1 is a commercial matter and that the respondent does not meet the definition of a "consumer" under the Act. The Commission further erred by exercising its jurisdiction in a matter that should have been addressed in a civil court, not under the consumer protection framework.
37. Since the petitioners were not, in any manner, involved in the process of providing goods or services to the Respondent No.1. The Respondent No.1 is not a 'competent consumer' in order to prefer a complaint before the District Consumer Disputes Redressal Commission.

38. In the matter of **Annapurna B. Uppin and Others v. Malsiddappa And Another, (2024) 8 SCC 700**, the Hon'ble Supreme Court held in paragraphs Nos.15 & 18, which reads as under:-

15. Secondly, the investment made by Respondent 1 complainant was for deriving benefit by getting an interest on the same @ 18% p.a., therefore, it would be an investment for profit/gain. It was a commercial transaction and therefore also would be outside the purview of the 1986 Act. Commercial disputes cannot be decided in summary proceeding under the 1986 Act but the appropriate remedy for recovery of the said amount, if any, admissible to Respondent 1 complainant, would be before the civil court. The complaint was thus not maintainable.

18. For all the reasons recorded above, we are of the view that the District Forum, the State and the National Commissions fell in error in allowing the complaint and upholding it in appeal and revision. The appeal is accordingly allowed. The impugned orders are set aside and the complaint is dismissed.

39. In view of the foregoing discussion and upon careful consideration of the statutory provisions contained in Sections 2(5), 2(6) and 2(7) of the Consumer Protection Act, 2019, this Court is of the opinion that Respondent No.1, being engaged in the business of transportation logistics and having entered into a purely commercial arrangement with the petitioners for providing transport services, does not fall within the definition of a "consumer" under the Act. The dispute between the parties arises out of a commercial transaction pertaining to recovery of alleged outstanding dues and does not constitute a consumer dispute within the meaning of the Act. Consequently, the District Consumer Disputes Redressal Commission, Raigarh lacked jurisdiction to entertain the complaint and to pass the impugned order. Accordingly, the impugned orders dated 27.10.2021 passed in Case Nos. CC/2020/172 and CC/2020/171 are hereby set aside. It is, however, made clear that Respondent No.1 shall be at

liberty to avail such remedy as may be available to him under law before the competent civil court or appropriate forum.

Sd/-
(Amitendra Kishore Prasad)
Judge

Avinash