

Writ Petitions not maintainable on Mixed Question of Facts and Law

2021 (7) TMI 174 - Madras High Court in M/s. NCR Corporation India Pvt. Ltd. Versus The Commissioner Of GST & Central Excise, Puducherry Commissionerate, Puducherry

1. The mixed question of fact and law has to be adjudicated with reference to the original records and evidences, before the appellate authority
2. The importance of the appellate remedy can never be undermined and the petitioner has to exhaust the same as the mixed question of fact and law are to be considered by the appellate authority, who is the final fact finding authority.
3. Entertaining a Writ Petition before exhausting the appellate remedy is an exception.
4. There is an imminent threat or gross injustice warranting urgent relief to be granted.
5. Mere violation of principles of natural justice is insufficient to entertain a writ proceedings under Article 226 of the Constitution of India, as every Writ Petition is filed based on one or the other ground stating that the principles of natural justice is violated or statutory requirements are not complied with or there is an illegality or otherwise.
6. Very purpose and object of legislation providing an appellate remedy cannot be diluted
7. The statutory appellate authorities are the final fact finding authorities.
8. Entertainment of a Writ Petition by dispensing with appellate remedy is not preferable and such an exercise would cause injury to the institutional hierarchy
9. The finding of such appellate forums would be a valuable assistance,
10. Based on the mere affidavits filed by the litigants, the disputed facts cannot be concluded.
11. The practise of filing the Writ Petition without exhausting the statutory remedies are in ascending mode and such Writ Petitions are filed with a view to avoid pre-deposits to be made in statutory appeals and on the ground that the appellate remedies are time consuming.