

JUDICIAL REVIEW IN TAX MATTERS: THE DOCTRINE OF ALTERNATIVE REMEDY AND ITS EXCEPTIONS

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ABSTRACT

The power of judicial review vested in the Supreme Court under Articles 32 and 136, and in the High Courts under Article 226 of the Constitution, extends to the review of legislative enactment, administrative action and the orders of quasi-judicial authority, including in fiscal matters. This paper examines how Indian courts have applied that power specifically to tax disputes, where the doctrine of alternative remedy, the principle that a High Court should ordinarily decline to entertain a writ petition where an effective statutory remedy exists, has been applied with particular rigour on account of the revenue's interest in the prompt and orderly recovery of tax. Tracing the doctrine from Assistant Collector of Central Excise v. Dunlop India Ltd. through Whirlpool Corporation v. Registrar of Trade Marks to the Supreme Court's recent clarification in Godrej Sara Lee Ltd. v. Excise and Taxation Officer, the paper distinguishes the question of a writ petition's maintainability from the analytically distinct question of its entertainability, and examines the recognised exceptions to the alternative remedy doctrine: want of jurisdiction, breach of natural justice, and challenge to the vires of the statute itself. It further examines the particular difficulty that arises where an assessee's appeal has become time-barred under a fiscal statute, contrasting the Supreme Court's approach in Glaxo SmithKline Consumer Health Care Ltd. with the High Courts' continuing willingness to exercise writ jurisdiction under Article 226 where sufficient cause for delay is shown but no statutory power of condonation extends to the case. The paper argues that judicial review in tax matters, properly exercised, functions not as a device for circumventing the statutory appellate hierarchy Parliament has established, but as a residual constitutional safeguard against jurisdictional excess and denial of natural justice that the ordinary statutory remedy cannot adequately address.

KEYWORDS: Judicial Review; Article 226; Alternative Remedy; Tax Litigation; Writ Jurisdiction.

1. INTRODUCTION

The power of judicial review is vested in the Supreme Court under Articles 32 and 136, and in the High Courts under Article 226 of the Constitution; no other court in the Indian judicial system possesses a comparable power.¹ That power extends to the review of legislative enactment, administrative action, and the orders and decisions of quasi-judicial authority, and, in an appropriate case, of judicial decision itself. Indian democracy operates under the rule of law, and the judiciary, as the third constitutional pillar, is entrusted with judicial review as the principal mechanism through which that rule of law is enforced against the state.²

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¹ India Const. arts. 32, 136, 226.

² S.P. Sampath Kumar v. Union of India, (1987) 1 S.C.C. 124, 13 (India).

The acts of the state and of public authority are, as a general constitutional principle, amenable to judicial review: the state is subject to the law of the land, meaning that every action of the state or its officials must conform to the Constitution and to validly enacted statute, and no organ of the state stands above that law. The purpose of judicial review, correspondingly, is to ensure that public authority acts within the bounds the law prescribes, and that administrative action does not exceed the power the law has actually conferred.³

This paper examines the specific application of judicial review to fiscal matters, an area in which Indian courts have applied a distinctive rigour to the doctrine of alternative remedy on account of the state's interest in the orderly and undisrupted collection of revenue. It traces the doctrine's development, distinguishes the analytically separate questions of a writ petition's maintainability and its entertainability, examines the recognised exceptions to the doctrine, and considers the particular difficulty that arises where a taxpayer's statutory appeal has become time-barred without any corresponding statutory power of condonation.

1.1 Research Methodology

This study adopts a doctrinal methodology, analysing constitutional provision, Supreme Court and High Court decisions, and academic commentary on administrative and tax law. Primary reliance is placed on the sequence of Supreme Court decisions addressing the alternative remedy doctrine in fiscal matters specifically, read alongside the general administrative law principles governing judicial review under Article 226.

1.2 Scope

This paper confines its analysis to the exercise of writ jurisdiction under Article 226 in disputes arising under direct and indirect tax statutes, principally the Income Tax Act, 1961, and comparable State-level fiscal legislation such as value added tax and excise statutes. It does not address the distinct body of law governing judicial review of tax policy or legislative competence in taxation matters, except to the limited extent that the vires exception to the alternative remedy doctrine requires.

2. THE NATURE OF THE JUDICIAL REVIEW INQUIRY

Judicial review, as a matter of general administrative law principle, is directed not at the correctness of a decision but at the lawfulness of the process by which it was reached: whether the decision-making authority adhered to established legal principle and to the requirements of natural justice, equity and fairness. Judicial review is accordingly not an appeal. On appeal, a court asks whether a

³ Council of Civil Service Unions v. Minister for the Civil Service, [1985] A.C. 374, 410 (H.L.) (Lord Diplock).

decision is right or wrong; on review, it asks only whether the decision is lawful or unlawful, a distinction H.W.R. Wade's influential treatise on English administrative law states with particular clarity.⁴ Rights of appeal are invariably statutory, whereas judicial review rests on the court's inherent common law power to determine whether action is lawful and to grant appropriate relief, a power that requires no independent statutory authorisation because it is simply the ordinary judicial function of enforcing the law applied to public authority specifically.

This distinction has a direct practical consequence for the remedy a reviewing court grants. Where administrative action exceeds the power conferred, the court's function is confined to quashing or declaring it unlawful, without more; the authority is treated as having done nothing in law and must proceed to a fresh, lawful decision. Where the complaint instead concerns breach of duty rather than excess of power, the appropriate remedy is an order compelling the authority to discharge that duty. In either case, the reviewing court does not substitute its own judgment for the authority's; it confines itself to the single question whether the impugned act or order should be permitted to stand.

Indian courts have consistently applied this distinction. The purpose of judicial review under Articles 226 and 32 is to ensure that an aggrieved party receives a correct decision-making process, and the exercise of that power must accord with principles of fairness rather than with narrow technicality that would perpetuate injustice; a reviewing court does not sit in appeal on the reasonableness of a decision, but confines itself to the correctness of the process by which that decision was reached.⁵ Judicial review, in short, is concerned with the decision-making process rather than the decision itself.

This process-focused conception of review carries particular significance in tax litigation, where the underlying dispute frequently concerns a genuinely technical question, valuation, classification, or the correct computation of a deduction or exemption, on which reasonable assessing officers might differ. A court exercising Article 226 jurisdiction is neither equipped nor authorised to resolve that technical disagreement directly; its role is instead confined to policing whether the assessing or appellate authority reached its conclusion through a process respecting the taxpayer's procedural entitlement and staying within the bounds the statute actually confers. This confinement is precisely what gives the alternative remedy doctrine its practical force in fiscal matters: where the dispute is genuinely about technical merit rather than about process or jurisdiction, the specialised statutory appellate hierarchy, culminating in the

⁴ H.W.R. Wade & C.F. Forsyth, *Administrative Law* 31-34 (11th ed. 2014).

⁵ *Union of India v. G. Ganayutham*, (1997) 7 S.C.C. 463, 30-31 (India).

Income Tax Appellate Tribunal or its State-level equivalent, is institutionally far better positioned than a writ court to resolve it correctly.

3. GROUNDS AND LIMITATIONS OF JUDICIAL REVIEW

3.1 Grounds of Judicial Review

Administrative action is conventionally understood to be subject to judicial review on three principal grounds, illegality, irrationality and procedural impropriety, with proportionality increasingly recognised as a fourth. The Supreme Court, in *Indian Railway Construction Co. Ltd. v. Ajay Kumar*⁶, identified the circumstances warranting judicial review as failure to exercise discretion, excess or abuse of discretionary power, manifestly erroneous exercise of discretion reflecting non-application of mind to relevant factors, and unreasonable exercise of discretion in the Wednesbury sense, including mala fide or bad-faith abuse of power established by direct evidence or by facts from which such abuse can reasonably be inferred. Judicial review accordingly becomes exercisable where there has been violation of the substantive provisions of the governing statute, including mandatory procedure it prescribes; violation of the principles of natural justice; or exercise of administrative or quasi-judicial power in a manner so arbitrary that it cannot be reconciled with either the statute or Article 14 of the Constitution.

3.2 Institutional Limitations on the Power

Judicial review, notwithstanding its constitutional breadth, operates within recognised institutional limitation. Courts generally lack the specialised expertise required to correct decisions turning on complex technical or subject-specific questions, a limitation that confines judicial examination to a narrower set of inquiries: whether the decision-making authority exceeded its power, committed an error of law, breached natural justice, reached a conclusion no reasonable person could have reached, or abused its power.⁷ Beyond correcting orders issued in excess of an authority's power, judicial review accordingly remains confined to examining whether the impugned order is vitiated by illegality, irrationality or procedural irregularity, rather than extending to a fresh examination of the underlying merits.

3.3 The Rationale for Institutional Restraint in Tax Cases Specifically

The institutional limitation examined above carries added weight in tax litigation because fiscal statutes typically establish a dedicated, specialised appellate hierarchy, commencing with an assessing authority and proceeding through one or more layers of departmental and tribunal appeal, precisely

⁶ *Indian Railway Construction Co. Ltd. v. Ajay Kumar*, (2003) 4 S.C.C. 579, 12-14 (India).

⁷ *Council of Civil Service Unions v. Minister for the Civil Service*, [1985] A.C. 374, 410 (H.L.) (Lord Diplock).

calibrated to the technical character of the disputes such statutes generate. A writ court asked to bypass that hierarchy is being asked, in effect, to substitute a generalist forum for one Parliament or a State Legislature has deliberately designed with the relevant technical competence in mind. This institutional design consideration, rather than any inherent constitutional disfavour toward tax litigants, supplies the strongest justification for the heightened rigour Section 5 below documents Indian courts applying to the alternative remedy doctrine specifically in fiscal matters.

4. LOCUS STANDI, ENTERTAINABILITY AND TIME-BARRED ORDERS

The question of locus standi, the legal capacity of an aggrieved party to invoke the jurisdiction of a court, and the exercise of the writ power under Articles 32 and 226, present a particularly difficult question where the order challenged has become time-barred because the aggrieved party failed to approach the relevant appellate authority within the statutory limitation period. Lord Denning observed that in administrative law the question of locus standi is the most vexed of all,⁸ a difficulty distinct from what American administrative law terms ripeness, under which courts decline to adjudicate abstract or hypothetical questions.⁹

4.1 Maintainability and Entertainability: The Godrej Sara Lee Clarification

The Supreme Court's decision in *Godrej Sara Lee Ltd. v. Excise and Taxation Officer-cum-Assessing Authority*¹⁰ supplies the modern, authoritative statement of principle in this area. The Court recalled its own early observation, in *State of Uttar Pradesh v. Mohd. Nooh*¹¹, that no rule comparable to the rule governing mandamus confines certiorari to cases lacking an equally effective alternative remedy: certiorari may issue notwithstanding a statutory right of appeal, the existence of an alternative remedy being merely a discretionary consideration bearing on whether a superior court should decline to interfere, a rule of policy and convenience rather than a rule of law admitting no exception.

The Court in *Godrej Sara Lee* went further, drawing a sharp analytical distinction between the maintainability and the entertainability of a writ petition, a distinction several High Courts had previously elided. Maintainability, the Court explained, goes to the root of the court's jurisdiction to receive the petition at all; where an objection to maintainability is well

⁸ Lord Denning, *The Discipline of Law* 122 (Butterworths 1979).

⁹ *Abbott Laboratories v. Gardner*, 387 U.S. 136, 148-49 (1967).

¹⁰ *Godrej Sara Lee Ltd. v. Excise and Taxation Officer-cum-Assessing Authority*, (2023) 3 S.C.C. 601 (India).

¹¹ *State of Uttar Pradesh v. Mohd. Nooh*, 1958 S.C.R. 595 (India).

founded, the court is rendered incapable of even receiving the matter for adjudication. Entertainability, by contrast, lies entirely within the High Court's discretion, since the writ remedy is itself discretionary in character: a petition may be maintainable, in the sense that the court possesses jurisdiction to receive it, and yet not be entertained, for a variety of reasons, including the availability of an adequate alternative remedy the petitioner has not pursued. The power to issue prerogative writ under Article 226 is plenary, and any limitation on its exercise must be traceable to the constitutional text itself rather than assumed as a matter of course; the mere failure to pursue an available statutory remedy accordingly cannot be treated as a mechanical ground for dismissing a writ petition as not maintainable, though it remains a weighty consideration bearing on whether the High Court should, as a matter of discretion, actually entertain it.¹²

This distinction carries direct consequence for the specific problem of time-barred orders this paper's title identifies. An order that has become time-barred under the relevant fiscal statute, because the aggrieved party failed to file a statutory appeal within the prescribed period, does not thereby become immune from writ jurisdiction as a matter of maintainability; whether the High Court should nonetheless entertain a challenge to it remains a discretionary question turning on the specific facts, including whether the case falls within one of the recognised exceptions to the alternative remedy doctrine examined in Section 5 below.

4.2 The Comparative Ripeness Analogy

The comparison to American ripeness doctrine, noted above, is instructive precisely because of where the two doctrines diverge. Ripeness asks whether a dispute has matured sufficiently for judicial resolution to be appropriate at all, a question addressed to the timing of review relative to the underlying administrative process. The entertainability inquiry *Godrej Sara Lee* articulates asks a different question: not whether the dispute has matured, since a time-barred fiscal order is, by definition, a fully matured dispute in that sense, but whether the specific procedural posture in which the dispute arrives, here, after the statutory limitation period has lapsed, makes writ review an appropriate exercise of the High Court's discretion. Indian courts have, in other words, developed a doctrine addressed to the propriety of review at a particular procedural moment that serves a function related to, but analytically distinct from, ripeness, and the distinction is worth drawing out explicitly because conflating the two risks importing assumptions from American administrative law that do not transfer cleanly to the Indian constitutional structure, in which

¹² *Godrej Sara Lee Ltd. v. Excise and Taxation Officer-cum-Assessing Authority*, (2023) 3 S.C.C. 601, 5-9 (India).

Article 226 supplies a plenary power ripeness doctrine, grounded in Article III's case-or-controversy requirement, has no direct counterpart to constrain.

5. THE DOCTRINE OF ALTERNATIVE REMEDY IN FISCAL LEGISLATION

The Supreme Court has consistently held that the doctrine of alternative remedy is to be applied with particular rigour in fiscal matters, on the reasoning that the revenue's interest in the prompt, undisrupted collection of tax warrants a stricter approach than administrative law generally applies. In *Assistant Collector of Central Excise v. Dunlop India Ltd.*¹³, the Court held that Article 226 is not a device for short-circuiting statutory procedure, and that recourse to the writ jurisdiction is appropriate only where the statutory remedy is genuinely ill-suited to the situation, as where the vires of the statute itself is in question, or where public and private wrong are so inextricably intertwined that the vindication of public justice requires it; matters involving revenue, where a statutory remedy exists, do not ordinarily meet this threshold, and the Court specifically cautioned against the practice of invoking Article 226 principally to obtain interim relief and thereby prolong proceedings.

This rigour has been consistently applied to other fiscal statutes as well. In *Authorised Officer, State Bank of Travancore v. K.C. Mathew*¹⁴, the Court, addressing the SARFAESI Act, reaffirmed its earlier holding in *United Bank of India v. Satyawati Tandon*¹⁵ that a writ petition ought not ordinarily to be entertained where the statutory scheme provides both a remedy before the Debts Recovery Tribunal and a further appellate remedy before the Appellate Tribunal, the availability of that two-tier structure being sufficient, in the ordinary case, to displace resort to Article 226.

The doctrine's application to income tax specifically was settled considerably earlier, in *Calcutta Discount Co. Ltd. v. Income Tax Officer*¹⁶, a Constitution Bench decision that rejected the argument that a writ petition could not lie merely because the question of the Income Tax Officer's reason to believe under-assessment had resulted from non-disclosure could equally be raised before the assessing or appellate authority. That the decision dates to 1961 and remains uncontradicted by any larger Bench underscores its continuing authority. The Court subsequently affirmed this position in *Whirlpool Corporation v. Registrar of Trade Marks*¹⁷, holding that the passage of time had not diminished the vitality of these older decisions, and that a High

¹³ *Assistant Collector of Central Excise v. Dunlop India Ltd.*, (1985) 1 S.C.C. 260, 3 (India).

¹⁴ *Authorised Officer, State Bank of Travancore v. K.C. Mathew*, (2018) 3 S.C.C. 85 (India).

¹⁵ *United Bank of India v. Satyawati Tandon*, (2010) 8 S.C.C. 110, 43, 55 (India).

¹⁶ *Calcutta Discount Co. Ltd. v. Income Tax Officer*, (1961) 41 I.T.R. 191 (S.C.) (India).

¹⁷ *Whirlpool Corp. v. Registrar of Trade Marks*, (1998) 8 S.C.C. 1, 20-21 (India).

Court's jurisdiction under Article 226 to entertain a writ petition despite the existence of alternative statutory remedy remains unaffected, particularly where the authority against whom the writ is sought is shown to lack jurisdiction altogether or to have purported to usurp jurisdiction without legal foundation; on that basis, the Court held the High Court had erred in dismissing the writ petition at the threshold without examining whether the underlying show cause notice was itself without jurisdiction.

Although SARFAESI is not, strictly, a taxing statute, the Court's reasoning in *K.C. Mathew* is instructive for tax litigation because it identifies the structural feature that most consistently drives courts toward strict application of the alternative remedy doctrine: the presence of a genuinely two-tier statutory hierarchy, first-instance adjudication followed by an independent appellate body, rather than a single-tier process offering only nominal review. Where a fiscal statute supplies that same two-tier structure, as the Income Tax Act does through the Commissioner (Appeals) and the Income Tax Appellate Tribunal, courts have applied comparable rigour; where a statute supplies only a thinner review mechanism, the case for deferring to it is correspondingly weaker, a distinction this paper's Section 6 discussion of the recognised exceptions develops further.

6. THE LIMITS OF THE DOCTRINE: JURISDICTIONAL AND NATURAL JUSTICE EXCEPTIONS

The cases examined in Section 5 above establish the rule; a comparable body of authority establishes its exceptions, confirming that the alternative remedy doctrine, whatever its rigour in fiscal matters, has never operated as an absolute jurisdictional bar.

The Allahabad High Court, in *Indra Prastha Chemicals (P.) Ltd. v. CIT*¹⁸, surveyed the governing Constitution Bench authority, including *K.S. Rashid and Son v. Income-tax Investigation Commission*¹⁹ and *State of Uttar Pradesh v. Mohd. Nooh*, and confirmed that while Article 226 confers a very wide power, the writ remedy remains discretionary, with a High Court retaining discretion to decline relief where an aggrieved party can obtain adequate relief elsewhere, while retaining the power to intervene in extraordinary circumstances involving breach of natural justice or a procedural defect the ordinary process could not adequately correct. This formulation confirms that the exceptions to the alternative remedy doctrine are not merely nominal: breach of natural justice, want of jurisdiction, and challenge to the vires of the governing statute have each been recognised, consistently across decades of

¹⁸ *Indra Prastha Chemicals (P.) Ltd. v. CIT*, (2004) 271 I.T.R. 113 (All.) (India).

¹⁹ *K.S. Rashid and Son v. Income-tax Investigation Commission*, [1954] 25 I.T.R. 167 (S.C.) (India).

case law, as circumstances in which the ordinarily rigorous fiscal-matters rule yields to the High Court's residual constitutional jurisdiction.

The Supreme Court's decision in *Commissioner of Income Tax v. Chhabil Dass Agarwal*²⁰ addressed this exception structure directly in the specific context of reassessment proceedings, considering whether a High Court could interfere, under Article 226, with an order passed under Section 148 of the Income Tax Act, 1961. The Court held that the High Court possesses jurisdiction to entertain a challenge to the correctness of a Section 148 notice, the reassessment order and any consequential demand, but only where the alternative statutory remedy is shown to be genuinely ineffectual, or where the High Court itself articulates cogent, case-specific reasons for exercising its discretionary jurisdiction notwithstanding the available alternative. This formulation confirms that the exception is not a general escape from the statutory appellate hierarchy but a narrowly circumscribed safeguard reserved for cases in which that hierarchy cannot adequately vindicate the taxpayer's right.

6.1 A Summary of the Exceptions

The four exceptions this table catalogues share a common structural feature worth making explicit: each addresses a defect in the process by which the impugned order was reached, rather than a disagreement with the substantive correctness of the assessment or demand itself. This is consistent with the process-focused conception of judicial review this paper's Section 2 develops: the alternative remedy doctrine's exceptions do not create a parallel avenue for relitigating the merits of a tax dispute through Article 226, but instead preserve the writ court's residual jurisdiction to correct the specific category of defect, jurisdictional, procedural or constitutional, that the statutory appellate hierarchy, however specialised in matters of technical tax merit, is institutionally less well positioned to address in the first instance.

Exception	Leading Authority	Rationale
Want of jurisdiction	Whirlpool Corp. v. Registrar of Trade Marks (1998)	An authority acting wholly outside its statutory power cannot be permitted to proceed merely because an appeal against its own order is technically available.
Breach of natural justice	Indra Prastha Chemicals v. CIT (2004)	The statutory appellate process presupposes a fair hearing at first instance; its absence undermines

²⁰ Commissioner of Income Tax v. Chhabil Dass Agarwal, (2014) 1 S.C.C. 603, 15-20 (India).

Exception	Leading Authority	Rationale
		the premise on which deference to that process rests.
Challenge to vires of the statute	Dunlop India Ltd. (1985)	A statutory appellate authority created by the very statute under challenge cannot adjudicate the statute's own constitutional validity.
Ineffectual or absent alternative remedy	Chhabil Dass Agarwal (2014)	Where the statutory remedy cannot, in the circumstances, provide adequate relief, deferring to it defeats rather than serves the purpose the doctrine exists to protect.

Table 1: Recognised Exceptions to the Alternative Remedy Doctrine in Fiscal Matters. Source: Authors' compilation from the case law discussed in Sections 5 and 6.

7. TIME-BARRED APPEALS AND THE PROBLEM OF CONDONATION

A distinct and practically significant difficulty arises where a taxpayer's statutory appeal has become time-barred, and the governing fiscal statute either provides no power of condonation at all or provides one subject to an outer limit the taxpayer's delay has already exceeded. The Supreme Court's decision in *Assistant Commissioner of Income Tax v. Glaxo SmithKline Consumer Health Care Ltd.*²¹ illustrates the difficulty concretely. An assessment order had been passed against the assessee under the Andhra Pradesh Value Added Tax Act, 2005, against which a statutory appeal lay under Section 31 of that Act; the assessee failed to file that appeal within the prescribed thirty-day period, and its subsequent application highlighting an error in the turnover on which the demand was based was dismissed, as was the appeal against that dismissal, on the ground that the delay exceeded the sixty-day outer limit within which the appellate authority could condone delay under the statute. The assessee then filed a writ petition seeking to quash the assessment order as contrary to law, without jurisdiction and in breach of natural justice; the High Court allowed the petition and remitted the matter for fresh consideration after a personal hearing, but the Supreme Court set aside that judgment, holding that the High Court had not adequately grounded its intervention in the recognised exceptions to the alternative remedy doctrine.

²¹ *Assistant Commissioner of Income Tax v. Glaxo SmithKline Consumer Health Care Ltd.*, (2020) 19 S.C.C. 681 (India).

The difficulty *Glaxo SmithKline* leaves open, and this paper's analysis suggests requires resolution, concerns fiscal statutes that impose no outer limit on condonation at all, unlike the Andhra Pradesh statute at issue in that case. Section 249 of the Income Tax Act, 1961, for instance, permits the first appellate authority to admit an appeal after the ordinary thirty-day period wherever it is satisfied the appellant had sufficient cause for the delay, without any statutory ceiling on how long that delay may be.²² Where an assessee can demonstrate sufficient cause for delay in circumstances falling within a recognised exception to the alternative remedy doctrine, jurisdictional defect or breach of natural justice among them, the absence of a statutory limitation ceiling means the constitutional power under Article 226 remains, on the analysis developed across the case law surveyed in Sections 5 and 6 above, available notwithstanding the technical bar of limitation; the question of delay in approaching the court and the separate question whether a statutory appeal is itself time-barred are analytically distinct, and a power of condonation vested concurrently in both an appellate authority and, in the appropriate case, in the High Court exercising Article 226 jurisdiction, need not be treated as mutually exclusive.

This reading is consistent with the broader principle *Godrej Sara Lee* articulates: that entertainability remains a matter of discretion even where an alternative remedy technically exists, and that a High Court should not mechanically decline jurisdiction merely because a statutory limitation period has lapsed, particularly where the underlying complaint, want of jurisdiction, breach of natural justice, or the assessing authority's fundamental error, is precisely the kind of complaint the alternative remedy doctrine's own recognised exceptions were designed to accommodate. Denying relief in such a case on limitation grounds alone would, on this analysis, defeat the constitutional purpose the writ jurisdiction exists to serve, since justice, properly understood, is a value that ordinary procedural technicality should not be permitted to override where a genuine jurisdictional or natural justice defect has been demonstrated.

7.1 Toward a Coherent Principle

Synthesising *Glaxo SmithKline* with the exception structure *Chhabil Dass Agarwal* and *Indra Prastha Chemicals* establish, a coherent working principle emerges: a time-barred statutory appeal does not, without more, open the door to Article 226 relief, since permitting it to do so as a matter of course would render statutory limitation periods effectively meaningless in fiscal litigation, a result *Dunlop India Ltd.*'s caution against using Article 226 to circumvent statutory procedure squarely forecloses. But where the taxpayer's substantive grievance is independently one of jurisdictional defect or natural justice breach,

²² Income-tax Act, 1961, § 249, No. 43, Acts of Parliament, 1961 (India).

rather than a grievance about the correctness of the underlying tax computation, the time bar operates only as one discretionary factor among several the High Court weighs in deciding whether to entertain the petition, not as an automatic jurisdictional bar. This synthesis reconciles the apparent tension between the rigour Section 5 documents and the exceptions Section 6 catalogues, and it supplies the doctrinal foundation for the specific recommendation regarding condonation ceilings this paper advances in its concluding section.

8. CONCLUSION AND RECOMMENDATIONS

The judiciary, as interpreter of the Constitution, bears responsibility for upholding constitutional value and enforcing constitutional limitation, and this responsibility forms the essence of the rule of law. Abuse of power by a statutory authority, or indeed by any authority created under statute, does not bar the exercise of jurisdiction under Article 226 merely because an alternative remedy exists, provided the authority is shown, on undisputed fact, to have assumed jurisdiction it did not possess.²³ The power conferred on the Supreme Court under Article 32, and on the High Courts under Article 226, forms part of the basic structure of the Constitution; judicial review is accordingly integral to India's constitutional system, and its absence would permit unchecked legislative and executive supremacy, reducing the rule of law to what one influential formulation has termed a teasing illusion rather than a genuine constitutional guarantee.

The Income Tax Act, 1961, and fiscal legislation generally, operate within the framework the Constitution establishes and cannot displace the constitutional power of the Supreme Court and High Courts to issue appropriate writ in a proper case. The power to issue a writ is both discretionary and equitable in character, and self-imposed restrictions on its exercise under Article 226 must themselves remain consistent with the underlying principles of justice and equity from which the power derives. The doctrine of alternative remedy, correctly understood on the case law traced in this paper, functions not as an absolute jurisdictional bar but as a discretionary consideration bearing on entertainability, one that yields, in a properly demonstrated case, to the recognised exceptions of jurisdictional defect, breach of natural justice and challenge to legislative vires.

On the basis of this analysis, the following observations follow for the future development of the doctrine.

- High Courts should apply the maintainability-entertainability distinction Godrej Sara Lee articulates consistently, resisting the tendency, evident in some earlier decisions, to treat the availability

²³ Whirlpool Corp. v. Registrar of Trade Marks, (1998) 8 S.C.C. 1, 15 (India).

of an alternative remedy as an automatic bar to a writ petition's threshold reception.

- Where a taxpayer's statutory appeal has become time-barred and the governing statute imposes no ceiling on condonable delay, a High Court exercising Article 226 jurisdiction should examine whether the underlying complaint falls within a recognised exception to the alternative remedy doctrine before declining relief on limitation grounds alone.
- Legislative clarity on condonation ceilings across fiscal statutes, rather than the present inconsistency between statutes such as the Andhra Pradesh Value Added Tax Act and the Income Tax Act, would reduce the recurring litigation this inconsistency has generated.

A further recommendation follows from the institutional design consideration Section 3.3 above identifies as the strongest justification for the alternative remedy doctrine's rigour in fiscal matters specifically. If that rigour rests substantially on the specialised competence of the statutory appellate hierarchy relative to a generalist writ court, then strengthening that hierarchy's own capacity to address jurisdictional and natural justice grievances directly, rather than leaving taxpayers to seek Article 226 relief for such grievances by default, would reduce the pressure on High Courts to fashion ad hoc exceptions to a doctrine whose underlying rationale remains sound. Appellate tribunals under fiscal statutes could, for instance, be given express statutory authority to quash an assessment on jurisdictional or natural justice grounds without first requiring the taxpayer to establish the full merits of the underlying tax dispute, a reform that would channel more of the exception-category litigation this paper has examined into the specialised forum Parliament and the State Legislatures originally intended to handle it.

Judicial review in tax matters is, in summary, a critical tool for upholding legality and procedural fairness in fiscal administration. The case law this paper has surveyed demonstrates that its application in tax disputes is substantially shaped by judicial discretion in determining whether to entertain a petition despite an available alternative remedy, a discretion the courts have, on balance, exercised in a manner that respects the statutory appellate hierarchy Parliament and State Legislatures have established while preserving the residual constitutional safeguard Articles 32 and 226 exist to provide against jurisdictional excess and denial of natural justice that hierarchy cannot itself correct.