

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO.6614 OF 2014

M/s Supreme Traders & 4 ors

.. Petitioners

vs

1.The Settlement Commission of Customs
& Central Excise Mumbai & ors

.. Respondents

Mr.A.M.Sachwani with Mr.U.M.Advani and
Mr.,R.R.Shah Advocates for Petitioners
Mr.Jitendra Mishra Advocate for Respondents

...

***CORAM: S.C.DHARMADHIKARI AND
G.S.KULKARNI, JJ***

DATE: 13TH JULY 2015

P.C.

1. The Settlement Commission has dismissed the application without passing any orders on merits because the Petitioner did not comply with its initial order. That initial order was passed by the Commission on 27th May 2013. The Petitioner during the course of hearing undertook before the commission to pay the differential duty along with interest within one week and submit the details thereof. The Petitioner could not comply with this and sought an extension of two weeks to deposit the differential duty along with interest. There was a further extension sought on 12th February 2014. Eventually, the differential duty was deposited on 5th

March, 2014 and equally the differential interest and challans were produced.

2. However, the Settlement Commission rejected the application because of non-fulfillment of the undertaking.

3. Now, a categorical statement made in the Memo of the writ petition that the order passed by the Settlement Commission has been complied with is not disputed or denied.

4. All that is argued on behalf of the respondents is an application for restoration is filed and which is pending.

5. After having heard both sides and in the larger interest of justice, we set aside the order dated 28th February, 2014/4th March, 2014 passed by the Settlement Commission. We restore the application being Settlement Application No.SA(C) 377-381/2013 on the file of the Settlement Commission for being dealt with and to be disposed of in accordance with law.

6. Our order passed in this writ petition shall not be treated as a precedent for we did not deal with the larger or wider legal questions. They are with regard to the powers of the Settlement Commission to dismiss the application without going into the merits thereof and the Settlement Commission's power to restore thereafter the application for decision on merits post compliance of its conditional order. All such questions are left open for being decided in an appropriate case.

7. In the facts peculiar to this case and finding that compliance was reported still the Settlement Commission dismissed the Petitioner's application that we have set aside the impugned order.

8. The Settlement Commission to now endeavour and dispose of the application expeditiously. All contentions of both sides are kept open. The writ petition is disposed off accordingly.

G.S.KULKARNI, J

S.C.DHARMADHIKARI, J