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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7242 OF 2014

Samsung India Electronics Pvt. Ltd. ..Petitioner

V/s.

State of Maharashtra & Ors. ..Respondents

Mr.P.K.Dhakephalkar, Senior Advocate with Roham Cama, Ms. Anuja Abhyankar and Robin Fernandes i/b. M/S.Federal & Rashmikaht for the petitioner.

Mr.S.N. Patil, AGP for respondent Nos.1 & 2.

Mr.Parag Vyas for respondent No.3.

**CORAM : A.S.OKA AND
A.K. MENON, JJ.**

DATED : 19TH JANUARY, 2015

P.C. :-

1. Heard learned senior counsel appearing for the petitioner. There is no dispute that, as of today, there is no order passed under section 16 of the The Legal Metrology Act, 2009 (for short 'the said Act of 2009') for the forfeiture of the seized goods of the petitioner. As of today, there is an order under clause (b) of sub-section (1) of section 15 of the said Act of 2009 of the seizure of goods. It is not the case of the respondents that sub-section (3) of section 15 of the said Act of 2009 is applicable to the seized goods.

2. Learned AGP representing the first and second respondents states that an appeal is available under under sub-

section (1) of section 50 of the said Act of 2009 against the order of seizure.

3. Apart from the remedy of appeal which is available, in view of section (4) of section 15 of the said Act of 2009, it is open for the petitioner to apply to the concerned Court under Code of Criminal Procedure, 1973 for appropriate relief especially when an order of forfeiture under section 16 of the said Act has not been passed.

4. There is a communication dated 16th January, 2014 issued by the second respondent which records that action of seizure is correct.

5. At this stage, it is pointed out by learned senior counsel for the petitioner that communication dated 16th January, 2014 (Exhibit-H to the petition) is an order passed on the show cause notice dated 9th December, 2013. As stated earlier, it is a communication which records that order of seizure is correct. However, this communication does not record that action of forfeiture under section 16 of the said Act of 2009 has been taken.

6. In view of the availability of the remedy as indicated

above, we decline to entertain this writ petition. We, accordingly, dispose of the petition. If an appeal is preferred by the petitioner, the same shall be decided as expeditiously as possible and preferably within a period of one month. If such an appeal is preferred, the appellate authority is bound to take a note of the fact that the present petition was filed on 25th July, 2014 and that the same remained pending till today. The appeal shall be decided in accordance with law.

7. We make it clear that we have made no adjudication on merits of the controversy. It is open for the petitioner to file appropriate proceedings for quashing criminal proceedings initiated against the petitioner. All contentions in that behalf are kept open.

8. To enable the petitioner to file appropriate proceedings, we direct that the action of forfeiture of the said goods and disposal of the seized goods shall not be taken for a period of six weeks from today.

(A.K.MENON, J.)

(A.S.OKA, J.)