

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

CRI. WRIT PETITION NO. 3992 OF 2014

Mr. Rajiv Ratanlal Ahuja ... Petitioner.

V/s.

G. D. Hire, Superintendent (A.E.)

& Anr.

... Respondents.

Mr. Abad Ponda a/w. Mr. Anand Sachwan, Mr. Vijay Moti Advani, Advocate for the Petitioner.

Mr. A.S. Inamdar, Special PP for the Central Excise.

Mr. Deepak Thakre, APP for the State.

CORAM : A. V. NIRGUDE, J.

DATED : 20th NOVEMBER, 2015

P.C. :

1 Due to unfortunate and incorrect words used in the order passed by the learned Magistrate, in Remand Application No. 65 /RA/2014 dated 22.08.2014, the present litigation has erupted. The petitioner was released on bail with a condition that he should repay amount of service tax as per the schedule annexed to his bail application. The amount was agreed to be deposited in certain instalments over period of more than one year. This was an undertaking by the petitioner.

2 In the order, the learned Magistrate also mention elsewhere that the learned counsel for the petitioner made a

statement across the bar that the petitioner would deposit entire remaining amount within a period of 90 days. There is apparently difference between the undertaking given by the Advocate of the petitioner and the petitioner himself. The learned Magistrate accepted both the undertakings. The question is, which undertaking would prevail. On the basis of which the undertaking given in writing that the schedule of the repayment ought to have been utilized. The order cancelling the bail is unfortunate and is set aside.

3 The writ petition is allowed and disposed of accordingly.

(A.V.NIRGUDE,J.)

.....