

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

WRIT PETITION NO. 11691 OF 2013

Benudhar Samal	}	Petitioner
versus		
Commissioner of Customs (Appeals)	}	Respondent

Mr. Vijay B. Singh and Mr. A. K. Singh for the Petitioner.
Mr. Pradeep S. Jetly with Mr. S. P. Bharati for the Respondent.

**CORAM :- S.C.DHARMADHIKARI &
S.P.DESHMUKH, JJ.**
DATED :- JANUARY 5, 2015

P.C. :-

The Commissioner (Appeals) has passed an interim order on 28th March, 2013, which is challenged in this Writ Petition under Article 226 of the Constitution of India by the original Appellant/Assessee.

2) After perusing the order passed by the Commissioner and on hearing the Counsel appearing for the Petitioner, we are not impressed with the request that this Court should interfere with the interim order. Tentative and prima facie findings have been rendered by the Commissioner so as to balance the rights and equity. His order takes care of the right conferred on the Appellant and equally the apprehension of the Revenue. A fair interim order has been passed

imposing reasonable condition so as not to non-suit the Petitioner. In these circumstances, the order does not require any interference in the Writ Jurisdiction. The Writ Petition is accordingly dismissed.

3) In the event the Petitioner pays the amount as directed under the order dated 28th March, 2013 within a period of four weeks from the date of receipt of the copy of this order, the Commissioner to decide the Appeal in accordance with law, uninfluenced by any tentative and prima facie finding. Non compliance of the direction would result in dismissal of the Appeal and thereafter no request of the Petitioner would be entertained in any manner.

(S.P.DESHMUKH, J.)

(S.C.DHARMADHIKARI, J.)