

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

CENTRAL EXCISE APPEAL NO. 25 OF 2014

Parental Creations Pvt. Ltd.	}	Appellant
versus		
Union of India and Ors.	}	Respondents

Mr. Ashok Singh for the Appellant.
Mr. A. S. Rao for the Respondent.

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

P.C. :-

We have heard Mr. Singh for the Appellant Assessee in support of this Appeal. We have, with the assistance of the learned Counsel, perused the impugned order of the Tribunal dated 30th November, 2012 and we have also perused the order dated 6th May, 2013.

2) Upon perusal of these orders and some of the Annexures in the Appeal paper book, we are not impressed by Mr. Singh's argument that the Tribunal has omitted from consideration even at the prima facie stage a vital and crucial document. If two entities M/s. Sajjan Textiles and M/s. Shreeman Textiles have procured the grey cloth, handed it over to a job worker and in turn, this job worker, on completion of the

job, transferred this to the garment manufacturer like the Applicant Assessee, yet, the Applicant was unable to produce material to indicate payment of duty by the grey cloth holders. That was very vehemently argued and by relying upon some documents which were not produced initially but later on. We do not fault the Tribunal because the order of the adjudicating authority confirming the duty demanded to the extent of Rs.82,91,790/-, interest and penalty does not indicate that such documents were produced. Both M/s. Sajjan Textiles and M/s. Shreeman Textiles remained absent. In such circumstances, we cannot fault the Tribunal for not granting a complete waiver of the condition of pre-deposit. The partial relief has been granted and against the above demand on deposit of Rs.20 lacs, the Appeal of the Applicant/Appellant was to be heard on merits. Such a condition is both, reasonable and fair. It does not impair, not take away a right of appeal conferred on the Appellant. In these circumstances, this Appeal does not raise any substantial question of law. It is dismissed.

3) However, at the request of Mr. Singh, we grant the Appellant/Applicant a further time of 8 weeks from the date of receipt of a copy of this order to comply with the Tribunal's direction. If the order is complied with in this additional time and proof produced, the Tribunal to restore the Appeal to its file and hear it on its own merits

and in accordance with law. No further extension will be granted under any circumstances by us. Non compliance would result in dismissal of the Appeal, without adjudication on merits. Needless to clarify that if the order is complied with, then, it would be open for the Appellant to rely on all materials including additional documents procured after the impugned order. If an appropriate application is made requesting to consider these documents and reading them in the course of the adjudication of the Appeal, we have no doubt that the Tribunal will pass an appropriate order on such application and bearing in mind the larger interest of justice.

(S.P.DESHMUKH, J.)

(S.C.DHARMADHIKARI, J.)