IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.1575/2015

Murli Industries Limited, Nagpur through its Chairman Cum Managing Director Shri Nandlal s/o Bankatlal Maloo and authorized person Shri Nikhilkumar Dixit s/o Kannoujilal Dixit
...Versus...
The Superintendent, Central Excise, Awarpur, District Chandrapur

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Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

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Shri U.Y. Sonkusare, Advocate for petitioner
S/Shri F.T. Mirza, Anand Deshpande, Advocates for respondent

CORAM : SMT. VASANTI A. NAIK AND PRASANNA B. VARALE, JJ.
DATE : 17.12.2015

By this petition, the petitioner challenges the attachment order passed by the Superintendent, Central Excise Range-Awarpur, dated 4.2.2015.

Shri Mirza, the learned Counsel for the Department raises the preliminary objection to the tenability of the writ petition. It is stated that under Section 35 of the Central Excise Act, 1944 any decision or order passed under the Central Excise Act is appealable before the Commissioner of Central Excise. It is stated that without availing the alternate remedy, the petitioner has approached this Court.

Shri Sonkusare, the learned Counsel for the petitioner sates that the appeal could have been filed within a period of 60 days and a further period of 30 days could have been granted. It is stated that the appeal would not be maintainable in view of the proviso to Section 35 of the Act.

Considering the predicament of the petitioner and also the fact that the petition was filed within the prescribed period of limitation and the existence of an alternate remedy, it would be necessary to direct the Commissioner (Appeals) to decide the appeal of the petitioner, if the petitioner presents the same, within a period of three weeks.

In view of the existence of an alternate efficacious remedy, we decline to entertain the writ petition. The writ petition is disposed of with no order as to costs. If the petitioner files an appeal before the Commissioner (Appeals) under Section 35 of the Central Excise Act, 1944, within three weeks the Commissioner (Appeals) may entertain the same and decide it, in accordance with law.

Order accordingly. No costs.

JUDGE **JUDGE**

Wadkar