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

CENTRAL EXCISE APPEAL (CEL) NO. 33 OF 2014

(Gupta Metallics and Power Ltd. vs. The Customs Excise and Service Tax Appellate Tribunal & Anr.)

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

CORAM : B.P. DHARMADHIKARI &
P.N. DESHMUKH, JJ.
DATE OF RESERVE : SEPTEMBER 03, 2015.
DATE OF PRONOUNCE : OCTOBER 01, 2015.

In this appeal under Section 35-G of the Central Excise Act, 1944, the appellant Company incorporated under the Companies Act, 1956, challenges the order dated 19.5.2014 passed by respondent No. 1 - CESTAT in Appeal No. E/8562/14-MUM and the order in original passed by respondent No. 2 - Commissioner at Nagpur on 24.08.2012.

Order dated 24.08.2012 was assailed before respondent No. 1 - CESTAT and as there was delay of 439 days in filing statutory appeal, prayer was to condone that delay and to stay the impugned recovery. CESTAT, on facts, found that there were two Directors viz. Shri Mahesh Gupta & Shri Ashok Bhojak who could have looked after the matter and ill health of Shri Jagdish Sharma between 24.09.2012 to 15.01.2014 did not constitute a just and sufficient cause.

CESTAT found that Shri Sharma was only an Excise Officer of the appellant Company who did attend the hearing before excise authorities in October, 2013 with the consultant Shri Sadavarte. Shri Sharma personally appeared on 17.10.2013 before Deputy Commissioner at Chandrapur. Thus, the claim in medical certificate was found wrong.

The manufacturing activity was discontinued in November, 2010 and Sharma appeared personally one year after the first date mentioned in the doctor's certificate and three months prior to end of his medical treatment. CESTAT also found that two Directors or any one of them could have filed the proceedings within limitation. These are the findings of facts.

Appeal before this Court is filed not by said Sharma but by the Director Mahesh Gupta. Why he could not file appeal before CESTAT or how could Shri Sharma appear in the matter before the Deputy Commissioner at Chandrapur, has not been clarified by him. Thus, there is no attempt to demonstrate that findings on facts reached by the CESTAT are perverse.

As we find that no substantial question of law is being raised in this appeal or then shown to be arising from the impugned order, no case is made out to enable us to interfere. Present Appeal is accordingly dismissed with no order as to costs.

JUDGE **JUDGE**

*GS.