IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9730 OF 2015

R. R. Associates ..Petitioner

Vs.

Commissioner of Customs
Central Excise Pune I Commissionerate ..Respondent

Mr. Sandeep S. Salunkhe,for the Petitioner.
Mr. Swapnil Bangur a/w Mr. Vipul A. Bajpayee,for the Respondent.

CORAM :- **S.C. DHARMADHIKARI & B.P.COLABAWALLA, JJ.**
DATE :- **NOVEMBER 21, 2016.**

P. C.:

We have heard both sides. We have perused the interim order of the Tribunal. Even if the Petitioner / appellant had been given an opportunity to remain present and argue on the merits of the interim application seeking waiver of the condition of pre-deposit, we do not think that a complete waiver was permissible. Secondly, the Tribunal found that the Petitioner has prima facie collected the amount of service tax from the recipient but had failed to deposit the same in the Government Treasury. In such circumstances, the condition to deposit 50% of the service tax demand does not require any interference in our extraordinary and discretionary jurisdiction under Article 226 of the Constitution of India. The Writ Petition is therefore devoid of merits and is dismissed. However, we grant time of eight weeks to comply with the order passed by the Tribunal and if that is complied with the Petitioner's appeal shall be entertained and decided on merits. In default, all consequences in law shall be followed.

(B. P. COLABAWALLA, J.) (S. C. DHARMADHIKARI, J.)