

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 546 OF 2015**

Schindler India Private Limited	...Petitioner
<i>Versus</i>	
The Union of India & Anr.	...Respondents

**Mr. N. Venkatraman, Senior Advocate, a/w Mr. Anupam Dighe
and Mr. Vishal Jathar, i/b India Law Alliance, for the
Petitioner.**
Mr. Pradeep S. Jetly, for the Respondents.

**CORAM: S.C. DHARMADHIKARI &
G.S. PATEL, JJ.**
DATED: 9th February 2016

PC:-

1. After having heard Mr. Venkatraman, learned Senior Counsel appearing for the Petitioner and perusing with his assistance the Petition and the annexures thereto including the impugned order and prior order of the Tribunal, we are of the view that in the event the Adjudicating Authority has not abided by the earlier order of remand by the Tribunal, then, that aspect can be agitated in a substantive statutory Appeal before the Tribunal. That Appeal and the remedy in respect thereof is equally efficacious. We do not think that merely because a condition is imposed of deposit

of 7.5% of the demand raised on the Petitioner that the remedy of statutory Appeal is rendered illusory or meaningless.

2. The condition imposed by the statute cannot be said to be excessive or onerous as well.

3. In such circumstances, we decline to exercise our writ jurisdiction leaving the Petitioner to avail of the remedy of statutory appeal before the Customs, Excise and Service Tax Appellate Tribunal.

4. It is stated that the Appeal would be filed within four weeks from today. If it is filed, the Tribunal shall take it up without raising the bar of delay or laches. The Writ Petition is disposed of.

(G. S. PATEL, J.)

(S. C. DHARMADHIKARI, J.)