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

CENTRAL EXCISE APPEAL NO. 123 OF 2005

The Commissioner of Central Excise	}	**Appellant**
versus		
LA Prenca Industries Pvt. Ltd and Anr.	}	**Respondents**

Ms. P. S. Cardozo with Mr. Ruju R. Thakkar for the appellant.

None for the respondents.

CORAM :- S. C. DHARMADHIKARI &
B. P. COLABAWALLA, JJ.

DATED :- OCTOBER 17, 2016

P.C. :-

1. Ms. Cardozo appearing for the Revenue, in support of this appeal, would submit that there are two substantial questions of law, on which the appeal was admitted on 13th January, 2006. The second question would not survive in the light of a Division Bench judgment in the case of *Commissioner of Central Excise vs. Rocket Engineering Corporation Ltd.*[1].

2. As far as the first question is concerned, we have perused the order of the tribunal, impugned in this appeal. It was found that the assessee was engaged in the business of manufacture of Pisotns and Gudgeon Pin and was availing the benefit of MODVAT

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Credit of duty on the raw material i.e. aluminium ingots. They were required to clear the waste and scrap arisen during the course of manufacture, on payment of duty under the provisions of erstwhile rule 57F(4) or the same could be cleared to their job workers for conversion in terms of the erstwhile rule 57F(2). It is the view taken by the Commissioner that such waste and scrap was required to be cleared on payment of duty. Thereafter, the tribunal found that one of the issues, as discussed in para 2 of the impugned order, has been settled by a Larger Bench judgment of the tribunal.

3. Then, a very small amount of Rs.4,81,446.59/- was confirmed by holding that the inputs sent to job work were not received within prescribed period. Factually, however, there was never any dispute that the goods were received back from the job workers, but there may have been some delay. Once the inputs worked upon were received back, then, the tribunal held that there is no justification in demanding the duty.

4. We do not find that the view taken on the said question can be said to be perverse or vitiated by any error of law apparent on the face of the record. Consequently, the appeal fails. It is dismissed. There would be no order as to costs.

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