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

CENTRAL EXCISE APPEAL NO.262 OF 2014

Bilpower Limited ... Appellant
versus
The Commissioner, Central Excise,
Customs and Service Tax, Vapi ... Respondent

Mr.Prakash Shah with Mr.Prasad Paranjape and Mr.Jas Sanghavi i/by M/s.PDS Legal for Appellant.
Mr.Pradeep S. Jetly with Mr.J.B.Mishra for Respondent.

CORAM : S.C.DHARMADHIKARI AND
G.S.PATEL, JJ.

DATE : 01 February 2016

PC :

1. As against the duty demand which was confirmed to the extent of Rs.18 crores and odd, the Customs, Excise and Service Tax Appellate Tribunal, West Zonal Bench, entertained the appeal of the Appellant and FOR staying the tax recovery, directed pre-deposit of Rs.3.5 crores. It is this order which is termed as unreasonable and making the right of appeal of the assessee illusory. Therefore, this further appeal raises substantial questions of law, according to Mr.Shah.

2. Having heard learned counsel for the parties and perusing the entire paper book, we find that the Tribunal had

before it an application for waiver of the condition of pre-deposit and stay of recovery pending statutory appeal. It is not the grievance of the Appellant that the Tribunal did not hear both the sides. The Tribunal allowed extensive contentions to be raised by both sides and on a due note thereof, it held that the condition of pre-deposit of Rs.3.5 crores will serve the ends of justice. We find that initially when the order was passed, a copy of which is at page 564 of the paper book, the Bench of the Tribunal duly noted the argument of assessee. It also noted the complaint that financial position of the assessee is precarious. However, the Tribunal found that there is only partial substance in that contention. It also found that the confirmed demand of Rs.18 crores and odd and equal amount of penalty, would not justify the total or complete waiver. Therefore, a partial waiver was granted. The condition imposed was fair, just and reasonable. It does not make the right of appeal illusory, as complained. In the circumstances, we find that the order of Tribunal is not perverse and the appeal does not raise any substantial question of law. The appeal is accordingly dismissed. No order as to costs.

3. After hearing both sides on the point of extension of time to comply with the Tribunal's order, we are of the view that interest of justice would be served and even if the amount directed to be paid by the Tribunal is brought within a period of three months from today, that should be accepted by the

authorities as compliance of the Tribunal's order and thereafter the appeal of the Appellant be heard and disposed of. In default, all consequences in law shall follow.

(G.S.PATEL, J.) (S.C.DHARMADHIKARI, J.)

MST