

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(1)

CA NO.2609/2017

**15 CIVIL APPLICATION NO. 2609 OF 2017
IN CEA/4/2015**

ISMT LIMITED
VERSUS
COMMISSIONER OF CENTRAL EXCISE AND CUSTOMS,
AURANGABAD CUSTOMS AND CENTRAL EXCISE

...
Advocate for Applicant : Mr.Yadkikar Amit A
Mr. D. S. Ladda & Mr. K. D. Mundhe, Advocates for for R/sole

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CORAM : S V GANGAPURWALA & K.L. WADANE, JJ.
Dated: March 10, 2017

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PER COURT :-

1. This is an application seeking stay to the order passed by the Customs, Excise and Service Tax Appellate Tribunal, West Zonal Branch, Mumbai (For short, `CESTAT')

2. We have heard learned Counsel for the applicant and Mr.Ladda, learned Counsel for the non applicant. The amount of duty with interest is paid by the applicant. The said fact is not disputed by the non applicant.

3. Now, the only dispute is about the amount of penalty which is determined to the tune of Rs.98, 93, 179/- which is legitimately on account of suppression.

4. Mr.Yadkikar, learned Counsel for the applicant submits

agp/-

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that the applicant has a claim of refund against non applicant. The said aspect is not the subject matter of the present litigation. The applicant may raise this aspect with the non applicant in an appropriate manner.

5. The appeal is already admitted. The merits of the matter will be considered at the time of hearing of the appeal. The matter being fiscal in nature, we are not inclined to grant blanket stay. Considering the substantial question of law framed by this Court and upon going through the judgment delivered by the CESTAT, we pass the following order:

ORDER

1. Pending hearing and final disposal of the appeal, the impugned judgment and order is stayed on condition that the petitioner deposits 50 per cent of the amount of penalty determined as per the impugned order within a period of six weeks from the date of this order.

2. Civil Application disposed of. No costs.

(K.L. WADANE, J.)

(S V GANGAPURWALA, J.)

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agp/-