

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Writ Petition No. 5511 OF 2016

The Commissioner Of Central Excise
Thane-II Commissionerate And Anr

...Petitioners

Versus

M/s Axiom Cordages Ltd. (EOU)

...Respondent

AND

Writ Petition No. 6794 OF 2016

The Commissioner Of Central Excise
Thane II Commissionerate And Anr

...Petitioners

Versus

M/s Responsive Industries Ltd.

...Respondent

*Mr.M.Dwivedi with Mr.Sham V.Walve, for the Petitioners.**Mr.V.Sridharan, Senior Counsel with Mr.Prakash Shah and
Mr.J.S.Sanghavi i/b. PDS Legal, for the Respondent.*

**CORAM : S.V. GANGAPURWALA &
G.S. KULKARNI, JJ.**

DATE: 5th JUNE, 2017

PC.:

1. The department has assailed the order passed by the Settlement Commissioner.

2. The learned Counsel for the petitioner strenuously contends that the Commissioner has wrongly passed the order of appropriation. The amount deposited by the Responsive Industries Limited could not be appropriated for the dues of Axiom Cordages Ltd. According to the learned Counsel, the aspect of appropriation could not have been adopted by the Settlement Commissioner as the same is illegal and is not supported by any provision of law.

3. Learned Counsel for the respondents in the respective Writ Petition supports the impugned order and submit that an amount of Rs.5 crores was deposited by the Responsive Industries Ltd. The liability of the Responsive Industries Ltd. is Rs.14,47,388/- and the liability of Axiom Cordages Ltd. is Rs.3,76,636/-. They are sister concern. The excess amount was available with the department of Responsive Industries Ltd. and the part of it has been appropriated for the dues of Axiom Cordages Ltd.

4. We have considered the submissions canvassed by the respective parties. There is nothing on record to even remotely suggest that the dues towards Responsive Industries Ltd. was more

than Rs.5 crores. It is also not disputed that Responsive Industries Ltd. has deposited Rs.5 crores with the department. The amount which is lying in excess with the department was appropriated for the dues of the sister concern – Axiom Cordages Ltd. No provision of law has been pointed out that the same is not permissible.

5. In the light of the above, no interference is called for.

6. Writ Petition is accordingly disposed of with no order as to costs.

(G.S.KULKARNI, J.)

(S.V. GANGAPURWALA, J.)