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

NOTICE OF MOTION NO. 856 OF 2017
IN
REVIEW PETITION NO. 41 OF 2016
IN
CENTRAL EXCISE APPEAL NO. 227 OF 2013

M/s. Hindustan Cotton Mills } Applicant
in the matter of
M/s. Hindustan Cotton Mills } Petitioner
versus
Commissioner of Central }
Excise, Mumbai-I and Anr. } Respondents

WITH
NOTICE OF MOTION NO. 858 OF 2017
IN
REVIEW PETITION NO. 40 OF 2016
IN
CENTRAL EXCISE APPEAL NO. 226 OF 2013

M/s. S. P. Cotton Mills } Applicant
in the matter of
M/s. S. P. Cotton Mills } Petitioner
versus
Commissioner of Central }
Excise, Mumbai-I and Anr. } Respondents

WITH
NOTICE OF MOTION NO. 860 OF 2017
IN
REVIEW PETITION NO. 42 OF 2016
IN
CENTRAL EXCISE APPEAL NO. 228 OF 2013

M/s. Shree Laxmi Textiles } Applicant
in the matter of
M/s. Shree Laxmi Textiles } Petitioner
versus
Commissioner of Central }
Excise, Mumbai-I and Anr. } Respondents

Mr. H. R. Shetty i/b. M/s. H. R. Shetty and
Associates for the applicants/petitioners.

None for the respondents.

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

DATED :- OCTOBER 4, 2017

P.C. :-

1. Heard Mr. Shetty appearing for the review petitioners on the notices of motion for restoration of the review petitions.

2. Mr. Shetty says that the copies of these notices of motion for restoration have been duly served on the Revenue. The affidavits proving service of these notices of motion have been filed. None present on behalf of the Revenue, though duly served.

3. Having heard Mr. Shetty at some length and perusing the affidavit in support of the notices of motion, we are of the view that sufficient cause is made out for the absence of Mr. Shetty on the relevant date. Hence, the order of dismissal of these review petitions dated 10th October, 2016 is recalled. The review petitions are restored to file.

4. With the consent of Mr. Shetty, we have heard the review petitions themselves. On perusal of the order under review, we

are of the view that our jurisdiction under section 114 read with Order XLVII Rule 1 of the Code of Civil Procedure, 1908 cannot be exercised. A review cannot be equated with a re-hearing of the appeal on merits. There are no grounds made out for reviewing our order, which has been passed on the appeals, which appeals were directed against an interim order of the Central Excise and Service Tax Appellate Tribunal (CESTAT), Bench at Mumbai. The CESTAT had before it, a stay petition. That petition was disposed of by applying the correct legal principles. In these circumstances, there is no merit in the review petitions and the same are dismissed.

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