IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

Central Excise Appeal No.11/2017
(The Commissioner of Central Excise & Customs & Service Tax, Nagpur-II .vs. M/s Komatsu India Pvt. Ltd.)

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.

Mr. S.N. Bhattad, Advocate for Appellant.

CORAM : M.S. Sanklecha & Manish Pitale, JJ.
DATED : June 21, 2017.

1. This appeal under Section 35-G(1) of the Central Excise Act, 1944 challenges the order dated 9.8.2016 passed by the Customs, Excise & Service Tax Appellate Tribunal (Tribunal).

2. The question as proposed by the Revenue for our consideration reads as under:-

> *"Whether the Tribunal is correct in extending the benefit of cum-duty price in terms of Explanation appended to Section 4(1) of Central Excise Act 1944 (Act) when the impugned goods were cleared clandestinely without cover of Central Excise invoices and without payment of duty?"*

3. It is evident from the question framed that the issue arising in this appeal relates to valuation of goods and, therefore, the appeal against such an order would lie before the Apex Court under Section 35L of the Act.

4. In the above view Mr. Bhattad, learned

counsel appearing for the appellant, on instructions seeks to withdraw the present appeal and to file the appropriate proceedings before the Apex Court.

5. Appeal disposed of as withdrawn.

JUDGE **JUDGE**

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