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

CENTRAL EXCISE APPEAL (CEL) NO. 21 OF 2017
(The Commissioner .v. M/s Shree Vyenktesh Casting Pvt. Ltd.)

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

CORAM : PRASANNA B. VARALE AND
ARUN D. UPADHYE, JJ.
09TH NOVEMBER, 2017.

Heard Shri S.N. Bhattad, the learned Counsel appearing on behalf of the appellant.

The appellant is challenging the order passed by the CESTAT dated 16.02.2017. The respondent/industry involved in manufacturing of MS Ingots, Steel Ingots, Alloy Steel Ingots, Rough Blank Rolls, Metal Rolls and Castings of Iron and Steel. The respondent was served with a show cause notice for evasion of excise duty through suppression of production. It is alleged that the respondent though was producing large production in actual, to evade the excise duty, the less production was shown on record. The case was based on the electricity consumption as there was no evidence of movement of the goods from the factory. The noticee, in support of his contentions, requested for cross-examination of certain witnesses. The learned Commissioner rejected the request for cross-examination of all witnesses as requested by the appellant before him.

In challenge to such rejection, the Tribunal found that for justifiable reasons, the Commissioner could have rejected the request for cross-examination of one person or couple of persons. The Tribunal found that the wholesome rejection is certainly in breach of principle of natural justice giving no opportunity to cross-examining any of the witnesses was certainly causing a serious prejudice to the noticee. Taking into consideration this very aspect of the matter, the learned Tribunal thought it fit to set aside the order impugned before him and remand the matter to adjudicating authority for passing a fresh denovo adjudication order, after following the principle of natural justice such as cross examination, submission by the appellant, personal hearing etc.

On perusal of the order of Tribunal and on the backdrop of the aforesaid facts referred by us in brief, we find that no error is committed by the Tribunal. The order impugned in the present appeal requires no interference at the hands of this Court. The appeal being thoroughly meritless, deserves to be rejected at the threshold.

In the result, the appeal is dismissed with no order as to costs.

JUDGE JUDGE

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