

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CENTRAL EXCISE APPEAL NO. 70 OF 2015

Dr. Subhash Balaprasad Ajmera .. Appellant

Versus

Union of India and another .. Respondents

Shri. Mahesh R. Sonwane, Advocate for the Appellant.

Shri. Alok Sharma, Standing counsel for Respondent No.2

Shri. Dwarkadas S. Ladda, Standing counsel for Respondent No. 2.

**WITH
CENTRAL EXCISE APPEAL NO. 71 OF 2015**

**CORAM : S.V. GANGAPURWALA AND
A. M. DHAVAL, JJ.**

DATED : 27th February, 2018

PER COURT:

. The appellant has approached this court against the order passed by the CESTAT, directing the appellants to make pre-deposit. Mr. Sonawane, the learned advocate for the appellants submits that the duty amount was paid. The amendment to section 35 of the Central Excise Act

is prospective in nature. It will not apply to the matters instituted prior to the amendment.

2. The learned advocate submits that the units of the appellants are closed down. The condition of pre-deposit is too harsh. The appellants have strong case on merits. The order impugned be set aside. The learned counsel further submits that upon non deposit of the amount as directed even the appeals are dismissed.

3. Mr. Ladda, the learned advocate for the respondents supports the order and submits that the CESTAT has taken a very liberal approach and directed the appellants to deposit a paltry amount. On failure to comply with the order of pre-deposit the necessary consequence of dismissal of appeals follows.

4. We have considered the submissions. Upon perusal of the order, it is manifest that CESTAT has exercised its discretion and directed the appellants herein to deposit the amount of 10% of duty interest and penalty in Central Excise Appeal No. 70/2015 and 50% of duty demanded in Central Excise Appeal No. 71/2015. The discretion has been exercised in a reasonable manner.

5. Considering that we are not inclined to the interfere with the orders passed by the CESTAT.

6. However, considering the difficulties shown, we extend the time for depositing the amount as directed by the CESTAT.

7. We extend the time to deposit the amount as directed by the CESTAT under the impugned order by six weeks from today. In case, the appellants deposit the amount within six weeks from today the order dismissing the appeals shall stand set aside and the CESTAT shall hear the appeals filed by the appellants on its own merits.

8. Failure to deposit the amount within six weeks from today as directed would entail the dismissal of appeals.

9. The appeals accordingly disposed of. No costs. In view of the dismissal of appeals Civil Applications also stand disposed of.

[A. M. DHAVAL, J.]

[S. V. GANGAPURWALA, J.]