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

CENTRAL EXCISE APPEAL NO.16 OF 2016 WITH
CIVIL APPLICATION NO.12727 OF 2016

Commissioner of Customs, Central Excise
& Service Tax ... APPELLANT

VERSUS

Shri Sumeet C. Tholle & Mrs. Partima
S. Tholle ... RESPONDENT

.....
Shri D.S. Ladda, Advocate holding for
Shri S.D. Patil, Advocate for appellant
Shri Akol Sharma, Advocate for respondent
.....

CORAM: S.V. GANGAPURWALA AND
SUNIL K. KOTWAL, JJ.

DATED : 15th MARCH, 2018.

ORAL ORDER :

1. It is stated that, the classification as well as scope of notification is the subject matter of dispute in this appeal.

2. Mr. Sharma, learned counsel for the respondent raises preliminary objection that the remedy to the appellant would be under Section 35-L of the Central Excise Act and the appeal would not be tenable under Section 35-G of the Central Excise Act. Learned counsel relies on the Division Bench judgment of this Court

in First Appeal No.2860/2008 with connected appeal, dated 23/11/2017. Mr. Ladda, learned counsel for the appellant does not dispute the said position.

3. In light of the above, the appeal stands disposed of with liberty to the petitioner to avail the appropriate remedy.

4. In view of disposal of the Appeal, Civil Application No.12727/2016 stands disposed of.

(SUNIL K. KOTWAL)
JUDGE

(S.V. GANGAPURWALA)
JUDGE

fmp/