

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

REVIEW PETITION NO. 85 OF 2018

IN

WRIT PETITION NO. 9986 OF 2017

M/s. Shree Bhimeshwari Ispat Pvt. Ltd.	}	Petitioner
versus		
Union of India and Anr.	}	Respondents

WITH

REVIEWPETITION NO. 91 OF 2018

IN

WRIT PETITION NO. 10557 OF 2017

M/s. Ambey Vaishno Steels Private Limited	}	Petitioner
versus		
Union of India and Anr.	}	Respondents

WITH

REVIEW PETITION NO. 92 OF 2018

IN

WRIT PETITION NO. 10556 OF 2017

M/s. Shree Siddhi Vinayak Ispat Pvt. Ltd. and Ors.	}	Petitioner
versus		
Union of India and Anr.	}	Respondents

Mr. S. P. Mathew with Mr. V. M. Doiphode
I/b.M/s.V.M.Doiphode and Co. for the
review petitioners.

Mr. Sham Walve I/b. Ms. Maya Majumdar
for respondent no. 2.

**CORAM :- S. C. DHARMADHIKARI &
SMT. ANUJA PRABHUDESSAI, JJ.**

Date :- AUGUST 31, 2018

P.C. :-

1. The petitioners in these review petitions seek review of our order passed in the writ petitions on 25th April, 2018. The only ground of review is that in a similar case, particularly in Division Bench Civil Writ Petition No. 11566 of 2016 in the case of *Shree Raj Pan Masala Private Limited and Anr. vs. Union of India and Anr.* decided with connected petitions, the Division Bench of the High Court of Rajasthan dismissed the writ petitions on 19th May, 2017 assigning identical reasons. Against that order, Raj Pan Masala Private Limited has approached the Hon'ble Supreme Court and the Hon'ble Supreme Court has granted Special Leave. In view thereof and pursuant to the liberty granted by the Hon'ble Supreme Court in the instant case, we should entertain the review petition.

2. We do not think that we should entertain the petition seeking review of our order on this ground for the simple reason that pendency of the Special Leave Petition or a civil appeal before the Hon'ble Supreme Court by itself and without anything more does not alter the legal position. The legal position being that if a remedy of appeal is not only alternate but equally efficacious, then, as a rule of caution and prudence, this court can refuse to entertain a writ petition.

3. In the instant case, the counsel for the petitioners would submit that there is a condition attached to this remedy of appeal. On being questioned, he says that the petitioners would have to secure 7.5% of the demand pursuant to the impugned order so as to avail of the remedy of appeal, failing which, that appeal would be dismissed. Thus, the appellate remedy is illusory. We are not in agreement for the simple reason that in more than one decisions ending with *Shyam Kishore and Ors. vs. Municipal Corporation of Delhi and Anr.*¹, the Hon'ble Supreme Court has held that such a condition is not only reasonable but does not render an appeal illusory. The condition cannot be said to be onerous, excessive and violative of the mandate of Articles 14 and 21 of the Constitution of India. In these circumstances, we do not wish to entertain these review petitions. They are, accordingly, dismissed.

(SMT. ANUJA PRABHUDESSAI, J.) (S.C.DHARMADHIKARI, J.)

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Vishwanath
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