

Hindustan Platinum Pvt. Ltd.}	Petitioner
versus	
The Union of India and Ors. }	Respondents

Ms. Shalaka Gujar with Mr. Dwivedi for
respondent no. 1.

DATE :- JANUARY 22, 2018

1. By this appeal, the tribunal's order dated 24th April, 2017 is challenged.

2. By that order, the tribunal held that there is no provision in the statute for staying the redemption fine imposed. Therefore, the miscellaneous application is dismissed.

3. The petitioner had filed a miscellaneous application seeking stay of recovery of redemption fine imposed by the order-in-original dated 29th February, 2016. That was imposed in the sum

of Rs.8 crores. There was a recovery and apprehending that recovery by coercive means, the application was filed. The present writ petition has been filed against the tribunal's order on the further apprehension that such an order of the tribunal would not be further appealable to this court.

4. We do not think that we should engage ourself in such a controversy for now there is a pronouncement of a Division Bench of this court that the miscellaneous application filed by the petitioner before the tribunal could not have been dismissed on the ground of maintainability.

5. Both sides concede that the order passed by the Division Bench of this court in the matter of *Mydream Properties Private Limited vs. Commissioner of Customs (Imports), Mumbai*¹ dated 8th December, 2017 concludes the issue in favour of the petitioner and against the Revenue. Therefore, we quash and set aside the order of the tribunal and restore the miscellaneous application to the tribunal's file for being decided afresh and in accordance with law. The tribunal should not now dismiss it on the ground of maintainability. All contentions of both sides, as far as the merits of the application is concerned, are kept open.

1 Customs Appeal No. 86 of 2017

6. The writ petition is disposed of accordingly. There would be no order as to costs.

(SMT. BHARATI H. DANGRE, J.)

(S.C.DHARMADHIKARI, J.)