

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 978 OF 2018
WITH
CIVIL APPLICATION NO. 215 OF 2018

Siddharth Shankar Roy	}	Petitioner
versus		
The Commissioner of	}	
Customs and Ors.	}	Respondents

Mr. Sachin M. Bandku for the petitioner.

Mr. Pradeep S. Jetly for the respondents.

CORAM :- S. C. DHARMADHIKARI &
SMT. BHARATI H. DANGRE, JJ.

DATE :- JANUARY 29, 2018

P.C. :-

1. The petitioner's advocate fairly states that the petition is filed against an order of the West Zonal Bench of the Customs, Excise and Service Tax Appellate Tribunal (CESTAT) dated 30th August, 2011.

2. The CESTAT has, by the impugned order, imposed penalty on the petitioner. The petitioner could have filed an appeal against such an order and it is undisputed that the provisions of law then prevailing enable filing of a further appeal to this court. It is in these circumstances that the earlier writ petition was allowed to be withdrawn (Writ Petition No. 2383 of 2014). That

writ petition was on the same cause of action as is projected in the present petition. We do not see how the petitioner can file another writ petition on the same cause of action. On 5th June, 2017, Writ Petition No. 2383 of 2014 was allowed to be withdrawn and the order reads as under:-

“1] The learned counsel for the Petitioner, on instructions, seeks leave to withdraw the Writ Petition with liberty to take up appropriate proceedings.

2] We have heard learned counsel for the Respondents also.

3] Considering the request made, the Petitioner is allowed to withdraw the Writ Petition with liberty to take appropriate proceedings as may be permissible in law. No costs.”

3. Surely, this order does not permit filing of another writ petition. Once a liberty was sought to file appropriate proceedings knowing fully well that in writ jurisdiction the order of the CESTAT cannot be challenged, then, this petition is entirely misconceived. It is dismissed, but without any order as to costs.

4. In the light of the disposal of the writ petition, the civil application does not survive and stands disposed of as such.

(SMT. BHARATI H. DANGRE, J.)

(S.C.DHARMADHIKARI, J.)