IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 963 OF 2016

LSR Speciality Oils Pvt. Ltd. } **Petitioner**
verssu
Union of India and Ors. } **Respondents**

Mr. Vipin Kumar Jain with Ms. Isha Shah, Mr. Vishal Agarwal and Mr. P. K. Shetty i/b. Mr. Prabhakar K. Shetty for the petitioner.

Mr. Swapnil Bangur with Mr. Jitendra B. Mishra for the respondents.

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

DATE :- JANUARY 29, 2018

P.C. :-

1. When this petition was placed for admission today, it is stated that the petitioner is not seeking refund of any amount paid to the Revenue. Instead, the petitioner claims that in the hope of a refund, what the petitioner had dropped at the window or lodged as contested proceeding is nothing but an appeal. The appeal is directed against the order passed by the Additional Commissioner of Central Excise, Belgaon Commissionerate dated 30th January, 2014, which order was communicated to the petitioner on 15th February, 2014. The appeal has been filed in the prescribed form and is traceable to the rules framed under

section 35 of the Central Exercise Rules, 1944. The duty demanded and confirmed in the order-in-original with commensurate penalty has been challenged. The stay petition is also enclosed.

2. In the above circumstances and when the petitioner is not seeking any refund, but has given up that relief and is now ready and willing to proceed with its statutory appeal, we direct that the Commissioner (Appeals) shall accept the documents, namely, from page 41 of the paper book till page 60 as a memo of appeal and a stay petition. He shall take it up and pass requisite orders either on the stay application or he can take up the appeal itself for adjudication and dispose it of in accordance with law. He shall do so after hearing both sides and with a speaking order.

3. With the aforesaid directions, the writ petition is disposed of. We clarify that we have expressed no opinion as far as the contentions of the parties on the merits of the appeal.

(SMT. BHARATI H. DANGRE, J.) **(S.C.DHARMADHIKARI, J.)**