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

CENTRAL EXCISE APPEAL NO. 39 OF 2018

Shri Mahila Griha Udyog Lijjat Papad … Appellant
V/s.
The Commissioner of Central Excise, Pune - III … Respondent

Ms. Manasi Patil, for the Appellant.
Mr. Vijay Kantharia, with Ms. Maya Majumdar for the Respondent.

CORAM: M.S.SANKLECHA & RIYAZ I. CHAGLA, JJ.
DATE: 10TH OCTOBER, 2018.

PC:-

1. This Appeal under Section 35 G of the Central Excise Act, 1944 challenges an order dated 30th November, 2017 passed the Customs, Excise and Service Tax Appellate Tribunal (Tribunal).

2. The Appellant urges the following question for our consideration.

> ***"Whether on the facts and in the circumstances of the case and in law was the Tribunal justified in passing the impugned order ignoring the test results of National Chemical Laboratory dated 14th September, 1998 and also test report of Deputy Chief Chemist dated 29th March, 2001, tested at the behest of Dept."?***

3. It is undisputed by the parties before us that the basic issue arising in impugned order dated 30th November, 2017 is the eligibility of the Appellant's goods to exemption from duty was notification No. 88/88 dated 1st March, 1988.

4. The answer to the proposed question would result in determining the eligibility to exemption notification No. 88/88 dated 1st March, 1988. Thus a rate of duty issue for purpose of assessment of goods.

5. In the above view as this is a clear case of rate of duty, an Appeal from the impugned order of the Tribunal to this Court is not maintainable under Section 35(G) (1) of the Central Excise Act. 1944. The remedy, if any, to the Appellant is to approach the Hon'ble Apex Court under Section 35(L) (1) (b) of the Act.

6. In the above, the Appeal is dismissed as not maintainable.

(RIYAZ I. CHAGLA J.) **(M.S.SANKLECHA, J.)**