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

CENTRAL EXCISE APPEAL NO. 30 OF 2018

The Commissioner of CGST & Central Excise, Mumbai Central Commissionerate … Appellant

V/s.

M/s. Development Credit Bank Ltd. … Respondent

Mr. Pradeep S. Jetly, with Mr. J.B. Mishra for the Appellant.
Mr. Rajesh Ostwal with Mr. Jas Sanghavi, I/b PDS Legal for thte Respondent.

CORAM: M.S.SANKLECHA & RIYAZ I. CHAGLA, JJ.
DATE: 23RD OCTOBER, 2018.

PC:-

1. This Appeal under Section 35G of the Central Excise Act, 1944 challenges the order dated 27th June, 2017 passed by the Customs, Excise and Service Tax Appellate Tribunal (the Tribunal).

2. Mr. Jetly, the learned counsel appearing in support of the Appellant urges the following question of law for our consideration:-

> ***"Whether in the facts and circumstances of the case and in law was the Tribunal right in allowing the Respondent's Appeal without considering the submissions of the parties and passing a speaking order"?***

3. The Appeal is admitted on the above substantial question of law.

4. At the request of the parties, the Appeal is disposed of finally at the stage of admission as the dispute is within a narrow compass.

5. We find that the impugned order dated 27th June, 2017 does not record the contentions / submissions made by the parties before it and consequently the manner in which the contentions / submissions of the parties are dealt with, is not disclosed in the impugned order. Thus the impugned order dated 27th June, 2017 is a non-speaking order. The Tribunal is required to decide the issue raised before it on consideration of the submissions of the parties and that consideration should be reflected in the order passed by the Tribunal. It is settled position in law that giving of reasons in support of the conclusion on consideration of the submissions is an integral part of the Rule of law as held by the Supreme Court in **CIT Vs. Shukla & Bros.**[1]**.** In the present case, we note that the impugned order merely records the dispute and that the Appellant supports the Appeal and the department representative opposes the Appeal. Thus this order being a non-

1 2010 (4) SCC 785.

speaking order is in breach of natural justice and cannot be sustained in law.

6. In view of the above, the proposed question is answered in the negative i.e. in favour of the Appellant Revenue and against the Respondent – Assessee. The order dated 27th June, 2017 is quashed and set aside and the Appeal is restored to the Tribunal for fresh disposal in accordance with law.

7. Appeal allowed in above terms. All contentions kept open.

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