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

CENTRAL EXCISE APPEAL NO. 237 OF 2017

Commissioner of Central Excise Pune III … Appellant
Versus
Piaggio Vehicles Pvt. Ltd. …Respondent

Mr. P.S. Cardozo, for the Appellant.
Mr. Sachin Chitnis, for the Respondent.

CORAM: M.S.SANKLECHA &
RIYAZ I. CHAGLA, JJ.
DATED: 17TH SEPTEMBER, 2018

PC:-

1. This Appeal under Section 35G of the Central Excise Act, 1944 challenges the order dated 10th October, 2013 passed by the Customs, Excise and Service Tax Appellate Tribunal (Tribunal).

2. The Appellant has urged the following substantial questions of law for our consideration :-

> ***(I) "Whether in the absence of any ruling on the credit availed on the inputs used in the clearance of goods such consequential relief in respect of the duty paid under protest can be given?"***
> ***(ii) " Whether the amount already availed as credit in respect of the impugned goods can be adjusted while giving consequential relief, especially when specific order to that effect has not been pronounced by the CESTAT"?***

3. The above question as proposed were not a subject matter of consideration by the Tribunal leading to the passing of the impugned order dated 10th October, 2013. The counsel for the

Revenue was not able to point out how these questions arise from the impugned order of the Tribunal. The impugned order of the Tribunal allowed the Respondent's Appeal by holding that the accessories, such as tool kits, jack assembly of vehicles are not includable in the assessable value of the motor vehicle. This view was taken by the Tribunal following the decision in the case of ***Bajaj Auto Ltd. Vs. Collector of Central Excise, Pune***[1] and the Supreme Court decision on the same issue dismissing the Revenue's Appeal from the Order of the Tribunal in the case of ***Bajaj Auto Ltd. Vs. Collector of Central Excise, Pune***[2]

3. We find that the Appeal memo has been signed by the Commissioner. We would expect due application of mind on the part of the Revenue before raising questions indicating the grievance to the impugned order of the Tribunal. Henceforth we would expect the Revenue to take appropriate care while filing Appeals to this Court.

4. In the above view, the Appeal is dismissed.

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

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1 2002 (148) ELT 1147 (T).

2 2003 (153) ELT A71 (SC).