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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CENTRAL EXCISE APPEAL NO. 260 OF 2017**

Gaware Earth Movers ... Appellant
V/s.
Commissioner of Central Excise Pune – I ... Respondent
Commissionerate

Mr. Sachin Chitnis, I/b Manasi Patil, for the Appellant.
Mr. Sham Walve, I/b Nikhil Wadikar, for the 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 7th April, 2017 passed by the Customs, Excise and Service Tax Appellate Tribunal (Tribunal).
2. Mr. Chitnis, learned counsel appearing in support of the Petition urges only the following substantial question of law for our consideration :-

“Whether in the facts and circumstances of the case and in law was the Tribunal justified in not remanding the matter back to the Adjudicating Authority to verify the tax / duty paying document and admissibility of the credit”?

3. We find that the impugned order of the Tribunal dismissed the Appellant's Appeal on the ground that the claim to avail

CENVAT Credit and utilize the same in rendering of output services. The impugned order of the Tribunal upheld findings of the Adjudicating Authority to hold that the Appellant had not produced invoices / documents in support of their claim to the credit. In fact the impugned order of the Tribunal specifically records that *“We do not find any merits in the appeal filed by appellant on this point, as on a specific query from bench, non-production of duty paying documents was affirmed nor the same are produced before us to come to any conclusion.”*

4. In view of the above concurrent finding of fact by the Adjudicating Authority as well as by the Tribunal no fault can be found with the dismissal of the appeal.

5. Therefore, the question as proposed does not give rise to any substantial question of law. Thus not entertained.

6. Accordingly, the Appeal is dismissed. No order as to costs.

(RIYAZ I. CHAGLA J.)

(M.S.SANKLECHA, J.)