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

MAHARASHTRA VALUE ADDED
TAX APPEAL NO.25 OF 2018

Elcome Marine Services Pvt. Ltd. … Appellant

V/s.

The State of Maharashtra … Respondent

Mr.C.B.Thakar for the Appellant.
Mr.Kedar Dighe, AGP for the Respondent.

CORAM : AKIL KURESHI AND
M.S.SANKLECHA, JJ.
DATE : NOVEMBER 28, 2018.

P.C.:-

1. The appellant had filed appeal against the Assistant Commissioner. In order to take benefit of the settlement scheme framed by the Maharashtra Government, the appellant desired to withdraw such appeal in part. However, according to the appellant, the Advocate erroneously applied for full withdrawal of the appeal. The Assistant Commissioner granted such request. Realizing the error, the assessee approached a Tribunal by filing appeal against the order of the Commissioner allowing

withdrawal of the appeal.

2. While disposing such appeal, the Tribunal correctly observed that the assessee should have approached the Commissioner for modification or recall of the order which admittedly the appellant had earlier not done. We have noticed that now the appellant has also moved an appropriate application before the Commissioner. We allow the appellant to pursue such application. It is the Commissioner who can correctly examine the relevant aspects. We are sure if it is brought to the notice of the Commissioner that the real intention of the assessee was not to withdraw the entire appeal and that the application for withdrawal was merely an error, the Commissioner would look into this aspect and pass appropriate order, as may be found justified.

3. With these observations, this tax appeal is disposed of.

(M.S.SANKLECHA,J.) **(AKIL KURESHI,J.)**

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