

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

WRIT PETITION NO.12 OF 2017

M/s. Metec Asia Ltd.

.... Petitioner

Vs.

The Union of India & Others

.... Respondents

Mr. Bharat Raichandani with Mr. Anshul Jain

i/by UBR Legal for the Petitioner.

Ms P.S. Cardozo for Respondent Nos.2 & 3.

CORAM: S.C. DHARMADHIKARI &
SMT. BHARATI H. DANGRE, JJ.

DATE : FEBRUARY 13, 2018

P.C:

1. The petitioner is aggrieved by an order passed at page 27 of the paper-book denying it refund.

2. During the course of arguments, Mr. Raichandani submits that the impugned order proceeds on the footing that there was no payment of excess duty enabling the petitioner to claim refund. The refund of duty paid in excess is what is contemplated by law and if such a finding is rendered, the

petitioner is seriously prejudiced. More so, when such a finding is rendered in the absence of the petitioner, or the petitioner not being shown the adverse material in possession of the Adjudicating Authority or in its records.

3. On this limited point we have heard both sides and if indeed there is a grievance made by the petitioner that the foundation of the impugned order is, there was no excess payment, then that vitally affects the right of the petitioner to claim refund and within the statutory scheme.

4. It was, therefore, expected that the petitioner was provided all these materials and before the same were used against him.

5. On this limited point and finding that there is no compliance with the principles of natural justice, we quash and set aside the impugned order. The writ petition is allowed. The refund application made by the petitioner shall now be decided again on merits and in accordance with law, without being influenced by any earlier observations and conclusions. We

clarify that we have not held that the petitioner is entitled to refund. The order on the refund application, as directed afresh, shall be passed as expeditiously as possible and within three months from today.

(SMT. BHARATI H. DANGRE, J.)

(S.C. DHARMADHIKARI, J.)