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

CUSTOMS APPEAL NO.3 OF 2017

The Pr. Commissioner of Customs
(Import-I), Mumbai .... Appellant
Vs.
M/s. L & T Sapura Shipping Pvt. Ltd.
& Anr. .... Respondents

Mr. Swapnil Bangur for the Appellant.
Mr. Jitendra Motwani i/by Economic Laws Practice
for the Respondents.

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

DATE : JANUARY 15, 2018

P.C:

1. On 4-1-2018, this appeal was listed before a Division Bench of this Court and it passed the following order:-

> "*1. None appears on behalf of the Appellant – Revenue in support of the Appeal.*
>
> *2. The basic question raised for our consideration by the Revenue is whether the benefit of an exemption notification can be extended inspite of failure to observe the conditions therein.*

> *3. It appears that the issue raised in this Appeal seems to be applicability of Notification No.21 of 2002 dated 1st March 2002. In the above view prima facie an Appeal against such an order would be before the Supreme Court in terms of Section 130E(b) of the Customs Act, 1962 and not here.*
>
> *4. However, the Appellant is not represented. It appears that it is not interested in prosecuting this Appeal. Therefore, we are adjourning the Appeal to 10th January 2018 to be posted under the caption for dismissal. It is made clear that if on the next date the Appellant is not represented, the appeal itself is likely to be dismissed for non prosecution.*
>
> *5. Stand over to 10th January 2018.*"

2. The Division Bench was very kind and generous and did not dismiss the appeal in the absence of either the Department or its counsel.

3. However, its above referred order is clear.

4. We repeatedly asked Mr. Bangur as to how in the teeth of this order does the Revenue feel that the appeal lies and before this Court. Despite sufficient time being available for him to take proper instructions, he was unable to answer our query. We had granted him time on 10-1-2018 as well.

5. We do not think that we can bifurcate the issues like this and as the Revenue desires. If the core issue is noted by the Division Bench and yet the Revenue is adamant and does not want to indicate to the Court its stand, then, we are not obliged to continue and hear Mr. Bangur on whether this appeal involves substantial question of law. The appeal is dismissed for want of prosecution.

(SMT. BHARATI H. DANGRE, J.) (S.C. DHARMADHIKARI, J.)