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

CENTRAL EXCISE APPEAL NO. 116 OF 2019

The Commissioner of CGST & CE
Navi Mumbai, Commissionerate .. Appellant

v/s.

Standard Drums & Barrel Mfg. Co. .. Respondent

Mr. J.B. Mishra for the appellant
Mr. Sriram Sridharan for the respondent

CORAM : M.S. SANKLECHA &
S.C. GUPTE, J.J.

DATED : 15th JULY, 2019

P.C.

1. This appeal under Section 35G of the Central Excise Act, 1944 challenges the order dated 28th June, 2018 passed by the Customs, Excise and Service Tax Appellate Tribunal (Tribunal).

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

(a) Whether the Tribunal was right in not giving any finding on the issue as to what shall be the correct finalized value of impugned goods?

(b) Whether the Tribunal was right in holding that the adjudicating authority, to whom case was remanded back for re-quantification of duty, could not have enhanced the duty, even though the assessee produced different CA Certificates with different figures, during earlier adjudication and de-novo adjudication?

(c) Whether the Tribunal was right in holding that such clearance could have been done by the assessee under Rule 4(5)(a) and if all the duty payable is available as Cenvat Credit to BPCL and HPCL the entire case is of revenue neutral?

3. As is evident from the question (a) as framed above, the issue relates to the correct valuation of the finished excisable goods i.e. drums. The Revenue is also unable to dispute that the question (a) formulated by it is an issue relating to valuation of the goods. Therefore, in view of Section 35G(1) of the Act, a question requiring determination amongst many other things to the value of goods for the purpose of assessment, the jurisdiction of this Court is barred.

4. In the above view, the appeal is disposed of as not maintainable before this Court.

(S.C. GUPTE, J.) **(M.S. SANKLECHA, J.)**