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

WRIT PETITION NO. 1407 OF 2019

The Commissioner of Customs (Export)
Air Cargo Complex .. Petitioner

v/s.

Ms. Parimala Singh .. Respondent

Mr. Pradeep S. Jetly for the petitioner
Mr. Chirag Shetty a/w Mr. Jitendra Motwani i/b For Economic Laws Practice for the respondent

CORAM : M.S. SANKLECHA &
NITIN JAMDAR, J.J.

DATED : 14th NOVEMBER, 2019

P.C.

1. On 25th September, 2019, we passed the following order :-

“. This Petition under Article 226 of the Constitution of India, challenges the order dated 31st May, 2017 passed by the Customs, Excise and Service Tax Appellate Tribunal (the Tribunal). The impugned order dated 31st May, 2017 disposed of the Petitioner’s rectification application, seeking to rectify the order dated 27th July, 2016, by which, the Appeal of the Respondent herein was restored.

2. It is the case of the Petitioner that the pre-deposit as directed by the Tribunal in its order dated 27th July, 2016 has not been complied With by the Respondent. Therefore, the Appeal of the Respondent cannot be entertained.

3. Mr. Motwani, learned Counsel appearing for the Respondent states that the amount as directed by the Tribunal, *has been deposited. He further states that some of the Appeals arising from the impugned order of the lower authority of the Tribunal are already on board of the Tribunal for final hearing.*

4. Mr. Motwani, learned Counsel appearing for the Respondent further states that he would file an affidavit in reply, bringing on record the above facts. Affidavit in reply to be filed within two weeks from today.

5 . Mr. Jetly, learned Counsel appearing for the Revenue seeks time to take instructions.

6. Stand over to 22nd October, 2019."

2. Consequent to the above, the respondent has filed affidavit dated 22nd October, 2019 wherein she has stated that the entire amount of pre-deposit payable by her in terms of stay orders of the Tribunal, have been deposited. In support, evidence of payment of deposits has also been annexed. In view of the affidavit, Mr. Shetty submits that the appeal itself is now listed on the board of the Tribunal for final hearing.

3. Mr. Jetly, learned Counsel appearing for the Revenue is unable to dispute the facts stated in the affidavit dated 22nd October, 2019 filed by the respondent.

4. In the above view, the grievance of the petitioner that the deposit as directed by the Tribunal has not been done by the petitioner, is not correct.

5. Accordingly, the petition is disposed of.

(NITIN JAMDAR, J.) **(M.S. SANKLECHA, J.)**