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

CENTRAL EXCISE APPEAL NO.183 OF 2018

Sri Dudeshwarnath Steels Pvt. Ltd., .. Appellant.
v/s.
Commissioner of Central Excise & Customs & Another .. Respondents.

Mr. Vishal Agrawal with Mr. Ramnath Prabhu and Mr. P.K. Shetty, for the Appellant.
Mr. Pradeep S. Jetly and Mr. J. B. Mishra, for the Respondents.

CORAM: A.S.OKA &
M.S.SANKLECHA, JJ.
DATE : 8th APRIL, 2019.

P.C:-

Heard the learned Counsel appearing for the Appellant and the learned Counsel appearing for the Respondents.

2 This appeal was admitted on 15th March, 2019 on the following substantial question of law:-

> *" Whether on the facts and in the circumstances of the case and in law, the Tribunal committed an error by not even considering the argument specifically made in written submissions that extended the period of limitation cannot be invoked in view of the decision of the Gujarat High Court in the case of Prayagraj Dyeing & Printing Mills Pvt. Ltd., v/s. Union of India (2013) 290 ELT 61?"*

3 In terms of the order dated 15th March, 2019, the learned Counsel appearing for the Respondents on instructions states that written submissions which are annexed as Exh. 'H' to the Petition were on record of the Appellate Tribunal.

4 Perusal of the impugned judgment and order dated 19th January, 2018, and a copy of the written submissions annexed as Exh. 'H' to the appeal shows that the Tribunal has not even adverted to the contentions raised in the written submissions. Once the written submissions are taken on record by the Tribunal, it was the duty of the Tribunal to deal with the contentions raised in the written submissions.

5 Therefore, the question of law as framed will have to be answered in favour of the Appellant and against the Respondent. Therefore, it follows that by setting aside the impugned order, the Appeal will have to be remanded back to the Tribunal for deciding the same in fresh in the light of the discussion made in the judgment. Accordingly, we pass the following order:-

(i) The impugned order dated 19th January, 2018 is hereby quash and set aside and Appeal No. E/1802/12-Mum is restored to the file of the Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench at Mumbai;

(ii) All contentions on merits are kept open;

(iii) Appeal is partly allowed.

(M.S.SANKLECHA,J.) **(A.S.OKA,J.)**

S.R.JOSHI