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

CENTRAL EXCISE APPEAL NO. 157 OF 2019

Commissioner of Central Tax, Pune-I
Commissioner, Pune … Appellant
V/s.
Tata Motors Ltd. ... Respondent

Mr. M Dwivedi a/w. Vipul Bajpayee for the Appellant

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

DATE : 20 SEPTEMBER 2019.

***P.C.* :-**

This Appeal under Section 35G of the Central Excise Act, 1944 challenges the order dated 2 September 2016 passed by the Customs, Excise and Service Tax Appellate Tribunal (the Tribunal). The Revenue has urged the following substantial question of law for consideration :-

> "Whether the CESTAT was correct in holding that provisions of Rule 7 of the erstwhile Central Excise Rules, 2001 could not be invoked for demanding interest if the differential duty is paid by an assessee before finalization of the provisional assessment?"

2. We find that the impugned order of the Tribunal allowed the Respondent – Assessee's appeal by inter-alia holding as under :-

> *" We find that the issue is no more res integra as the Hon'ble High Court of Bombay in the case of CEAT Ltd. vs. CCE, Nashik reported in 2015 (317) ELT 192 (Bom.), upheld the Tribunal's order that interest liability does not arise when the assessments are finalized and there is no demand of differential duty. The said judgment of the Hon'ble High Court of Bombay was carried in appeal by the Revenue to the Hon'ble Supreme Court and the apex court by an order dated 14.12.2015, after condoning the delay, dismissed the special leave petition filed by the Revenue. It would mean that the apex court has settled the law that the interest liability does not arise when the amount is paid before the finalization of the provisional assessment on its own by an assessee."*

3. In view of the fact that the impugned order has followed the decision of our Court in holding that Rule 7 of the Central Excise Rules, 2001 could not be invoked at the time of final assessment. No fault can be found with the same.

4. In view of the fact, the issue stands concluded by the decision of this Court. The question does not give rise to any question of law. The Appeal stands dismissed.

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