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

CENTRAL EXCISE APPEAL NO. 265 OF 2017

The Commissioner of Central Excise
Thane-I, Commissionerate,
Navprabhat Chambers, Ranade Road,
Dadar-West, Mumbai-400 028. ....Appellant

V/s

M/s. L'Oreal India Pvt. Ltd.,
Peninsula Towers, Lower Parel,
Mumbai-400 013. ....Respondent

WITH
INTERIM APPLICATION NO. 1860 OF 2021
IN
CENTRAL EXCISE APPEAL NO. 265 OF 2017

The Commissioner of
CGST & Central Excise
Bhiwandi Commissionerate ....Applicant
(Original Appellant)

<u>In the matter between :</u>

The Commissioner of
CGST & Central Excise
Bhiwandi Commissionerate ....Appellant

V/s

M/s. L'Oreal India Pvt. Ltd.,
Peninsula Towers, Lower Parel,
Mumbai-400 013. ....Respondent

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Ms. P.S. Cardozo for appellant.

Mr.Jitendra Motwani i/b Mr. Mihir P. Deshmukh for respondent.

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CORAM : DHIRAJ SINGH THAKUR AND VALMIKI SA MENEZES, JJ.

Date : 22nd July 2022.

P.C. :

1. The present appeal has been filed by the Commissioner of Central Excise, Thane-I Commissionerate against the order dated 13th June 2014 passed by the Customs Excise and Service Tax Appellate Tribunal (CESTAT) in Appeal No.E/1109 & 1110/11 which was filed by the respondent herein.

2. Having heard learned counsel for the parties at some length, it was brought to our notice that the order, dated 13th June 2014 passed by the CESTAT was a common order, whereby nine appeals filed by the Revenue were decided. The Revenue, in particular, Commissioner of Central Excise, Raigad preferred an appeal bearing No.182 of 2015 (***Commissioner of Central Excise, Raigad Vs. L'oreal India Pvt.Ltd. Central Excise, Raigad*** [1]) before this Court which was dismissed vide order dated 17th January 2018.

1 2018(360) E.L.T. 389 (Bom.)

3. On a perusal of the memo of appeal, it can be seen that the appellant admits that the order of the CESTAT, dated 13th June 2014 in regard to all the appeals is “on a common footing”. What is stated in the memo of appeal in paragraph (h) is as under :

> “(h)..................Though this office had earlier accepted the CESTAT order, dated 13.06.2014 on merits, as discussed herein above, since the issues involved in the notices in respect of locations of M/s.L’Oreal India Pvt. Ltd. under Central Excise Jurisdiction of Thane-I and Raigad Commissionerate are same and similar, it therefore, appears necessary that a contradictory stand is avoided in the matter for safe guarding the revenue.”

4. It, therefore, appears that the present appeal was preferred only because the Thane Commissionerate had proceeded to file Central Excise Appeal No.182 of 2015 (***Commissioner of Central Excise, Raigad Vs. L’oreal India Pvt.Ltd. Central Excise, Raigad***) and that this was done with a view to safe-guard the interest of revenue.

However, we are of the opinion that since the issue has already been considered by this Court in Central Excise Appeal No.182 of 2015 and the appeal dismissed by holding that the order impugned did not suffer any illegality or perversity, we cannot persuade ourselves to take a view different from the one already taken.

5. Be that as it may, the appeal is found to be without merit and is accordingly dismissed.

6. In view of dismissal of appeal, Interim Application No.1860 of 2021 also stands disposed of.

[VALMIKI SA MENEZES, J.] **[DHIRAJ SINGH THAKUR, J.]**