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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.3814 OF 2024

Metro Trading Company and Anr. .. Petitioners
Versus
Union of India .. Respondent

AND
WRIT PETITION NO.3817 OF 2024

Tropical Woods Pvt. Ltd. and Anr. .. Petitioners
Versus
The Union of India .. Respondent

Mr. Anil Balani a/w Mr. Jas Sanghvi for the petitioner.
Mr. Karan Adik, Ms. Maya Mujumdar and Mrs. Sangeeta Yadav for
respondent.

CORAM : M. S. Sonak &
Jitendra Jain, JJ.
DATE : 27 November 2024

PC:-

1. Heard learned counsel for the parties.
2. We are not inclined to interfere with the impugned Order-in-Original dated 28 February 2023 given the decision of the Hon'ble Supreme Court order dated 7 November 2024 in Review Petition No.400 of 2021 in the case of '**Commissioner of Customs Vs. Canon India Private Limited**' (Civil Appeal No.1827 of 2018). However, consistent with the Hon'ble Supreme Court's decision, we grant the petitioner 8 weeks time (from the date of uploading of the present order) to file appeal against the Order-in-Original dated 28 February 2023. If such an appeal is filed within 8 weeks, the Appellate Authority to consider the appeal on merit without adverting the issue of limitation.
3. Mr. Balani submits that in the case of this very petitioner, the Division Bench of this Court, by its order dated 4 July 2012 had, in

earlier occasion recorded a prima facie view that the order based on which pre-deposit was directed could not be sustained. Mr. Balani submits that the petitioner's financial position continues to be the same and therefore, in this case, either we should entertain this petition without insistence on any deposit or we should waive the pre-deposit requirement.

4. Given the decision of Hon'ble Supreme Court in the case of ***'Kotak Mahindra Bank Pvt. Ltd. Vs Ambuj A. Kasliwal' (2021) 3 SCC 549***, we cannot consider the plea for waiver of the minimum pre-deposit amount before the Appellate Authority. Besides this, based on the order dated 4 July 2012, where, only a prima view was expressed almost 12 years ago, we cannot accede to the petitioner's request to entertain this petition. Apart from the order dated 4 July 2012, no other material was pointed out to us regarding the petitioner's financial capacity.

5. Therefore, consistent with the liberty granted by the Hon'ble Supreme Court in such matters to institute an appeal, we maintain our directions as recorded earlier. There is no question of us entertaining this petition or ordering any waiver of pre-deposit.

6. All the contentions of all parties, except those concluded by the Hon'ble Supreme Court in its decision dated 7 November 2024 are kept open.

7. This petition is disposed of in the above terms without any order for costs. Interim order, if any, stands vacated. Interim applications, if any, do not survive and are disposed of.

8. All concerned to act upon the authenticated copy of this order.

(Jitendra Jain, J.)

(M. S. Sonak, J.)