IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

REVIEW PETITION NO.33 OF 2026
IN
WRIT PETITION NO.5235 OF 2023

Venkatesh Enterprises
through Ms.Swati Sunil Mundhe (Proprietor) .. Petitioner

Versus

Union of India & Anr. .. Respondents

Ms.Akshata Bhogle, Advocate for the Petitioner.

CORAM : B. P. COLABAWALLA &
JITENDRA JAIN, JJ.
DATE : MARCH 07, 2026

P. C.

1. By a separate order passed today in Interim Application No.1808 of 2026 we have condoned the delay in filing the above Review Petition. With the consent of parties, we have taken up the Review Petition for hearing.

2. The above Review Petition is filed seeking a review of the order dated 1st July 2025 passed by this Court. By the order under review, the above Writ Petition was dismissed. Since it is a short order, the same is reproduced hereunder:-

> *"1. Heard learned counsel for the parties.*
>
> *2. The challenge in this Petition is to the impugned order in original dated 12 April 2022.*
>
> *3. Admittedly, the impugned order is appealable and it has now been revealed that the Petitioner has already instituted an Appeal alongwith an Application for condonation of delay waiver of the pre-deposit amount. The same is pending before the Appellate Authority.*
>
> *4. To our query as to why this Petition has been instituted, the learned counsel for the Petitioner states that there are difficulties for the Petitioner to pay the pre-deposit amount. Already an Application has been filed for waiver of pre-deposit. The same is yet to be disposed of.*
>
> *5. Accordingly, we are satisfied that there is no good ground to entertain this Petition, now that the Petitioner has already availed of the alternate remedy.*
>
> *6. For the above reasons, we decline to entertain this Petition and leave it open to the Petitioner to pursue her Appeal and the Application filed therein.*
>
> *7. All contentions of all parties in this regard are kept open.*
>
> *8. The Petition is disposed of in the above terms without any order as to costs."*

3. Review of this order is sought by the Review Petitioner stating that inadvertently it was not communicated to this Court that on the date when the order was passed, the Appeal filed by the Petitioner was already disposed on 31st January 2023. Therefore the aforesaid order be reviewed.

4. Though factually we find what the learned counsel has stated is correct, we do not see any reason to review the order dated 1st July 2025. We say this for the simple reason that the Appeal of the Petitioner before the Commissioner of Central Tax (Appeals) was rejected because the Petitioner failed to deposit the amount required under Section 35(F) of the Central Excise Act, 1944 read with Section 83 of Chapter-V of the Finance Act, 1994. Once there was a failure to deposit the requisite amount as set out in Section 35F, the Commissioner of Central Tax (Appeals), and in our view, correctly rejected the Petitioner's Appeal.

5. In light of this, even assuming that we should recall or review the order dated 1st July 2025, the final outcome of the above Writ Petition would be the same, namely, its dismissal.

6. In these circumstances, the Review Petition is dismissed. However, there shall be no order as to costs.

7. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[JITENDRA JAIN, J.] **[B. P. COLABAWALLA, J.]**

Utkarsh