

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**TAX APPEAL NO. 100 of 2008****FOR APPROVAL AND SIGNATURE:****HONOURABLE THE ACTING CHIEF JUSTICE MR. VIJAY MANOHAR SAHAI****and****HONOURABLE MR.JUSTICE R.P.DHOLARIA**

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
 - 2 To be referred to the Reporter or not ?
 - 3 Whether their Lordships wish to see the fair copy of the judgment ?
 - 4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India or any order made thereunder ?
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THE COMMISSIONER OF CENTRAL EXCISE & CUSTOMS, SURAT-

I....Appellant(s)

Versus

JAI JINENDRA PRINTS P. LTD.....Opponent(s)

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Appearance:

MR.VARUN K.PATEL, ADVOCATE for the Appellant(s) No. 1

MR DHAVAL SHAH, ADVOCATE for the Opponent(s) No. 1

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE MR. VIJAY MANOHAR SAHAI
and

HONOURABLE MR.JUSTICE R.P.DHOLARIA**Date : 31/03/2015****ORAL JUDGMENT****(PER : HONOURABLE THE ACTING CHIEF JUSTICE MR. VIJAY
MANOHAR SAHAI)**

1. We have heard Mr.Varun K.Patel, learned counsel for the appellant and Mr.Dhaval Shah, learned counsel for the respondent.

2. In this Tax Appeal, the adjudicating authority determined the demand of central excise duty amounting to Rs.2,76,989/- and confirmed the central excise duty amounting to Rs.2,76,432/-and further ordered to recover Rs.557/- being the outstanding amount from the unit and also imposed the penalty of equal amount. The assessee filed the appeal before the Commissioner (Appeals) which came to be disposed of by modifying the order passed by the adjudicating authority. The revenue filed the appeal before the CESTAT and the Tribunal has allowed the appeal filed by the revenue to the extent that penalty originally imposed by the adjudicating authority is reduced to 25% along with confirmation of interest in accordance with law. The said order of the Tribunal is challenged in this tax appeal.

3. A Division Bench of this Court in the case of **COMMISSIONER OF CENTRAL EXCISE & CUSTOMS**

V. STOVEC INDUSTRIES LTD., reported in **2014(33) STR 124 (Guj)** held that in view of instruction dated 17.8.2011, tax appeal below Rs.10 lakh is not maintainable and this instruction also applies to the pending appeal. Following the aforesaid decision of the Division Bench, we dismiss this tax appeal as not maintainable. No order as to costs.

(V.M.SAHAI, ACJ.)

(R.P.DHOLARIA,J.)

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