

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**TAX APPEAL NO. 1612 of 2007****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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COMMISSIONER OF CENTRAL EXCISEAHMEDABAD - II....Appellant(s)

Versus

SAMIR SYNTHETIC MILLS....Opponent(s)

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Appearance:

MR HRIDAY BUCH, ADVOCATE for the Appellant(s) No. 1

MR PARESH M DAVE, 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 : 27/02/2015

ORAL JUDGMENT

(PER : HONOURABLE MR.JUSTICE R.P.DHOLARIA)

1. We have heard learned counsel for the parties.

2. In this Tax Appeal, the adjudicating authority imposed the penalty of Rs.7,50,000/- and also confirmed the interest of Rs.43,644/-. The assessee filed the appeal before the Commissioner (Appeals) which came to be allowed. The revenue filed the appeal before the CESTAT and the Tribunal has rejected the appeal. 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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