

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**TAX APPEAL NO. 1680 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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THE COMMISSIONER OF CENTRAL EXCISE & CUSTOMS, SURAT -

I....Appellant(s)

Versus

GUPTA TEXTILE INDUSTRIES LTD.....Opponent(s)

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Appearance:

MR.VARUN K.PATEL, 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 Mr.Varun K.Patel, learned counsel for the appellant and Mr.Paresh Dave, learned counsel for the respondent.

2. In this Tax Appeal, the adjudicating authority has determined central excise duty of Rs.71,154/- and also imposed the penalty of equal amount along with interest. The assessee filed the appeal before the Commissioner (Appeals) which came to be rejected. The assessee filed the appeal before the CESTAT and the Tribunal has reduced the penalty to Rs.35,000/- from Rs.71,154/-. 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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