

(2013) 02 BOM CK 0045

In the Bombay High Court

Case No : Writ Petition No. 1343 of 2013

Sharda Constructions

APPELLANT

Vs

Central Board of Excise and Customs

RESPONDENT

Date of Decision : 21-02-2013

Acts Referred:

Citation : (2013) 295 ELT 376

Hon'ble Judges : D.Y. Chandrachud, J;A.A. Sayed, J

Bench : Division Bench

Advocate : Prathamesh N. Kamat instructed by and Yashodhan R. Gavankar, for the Appellant; Pradeep S. Jetly with Ms. Suchitra Kamble, for the Respondent

Final Decision : Disposed Off

Judgement

1. The Petitioner has filed an appeal together with a stay application before the Commissioner (Appeals), Mumbai against an order of the Additional Commissioner, Service Tax, Mumbai-II dated 13 March, 2012 demanding duty of Rs. 18.83 lakhs together with interest. The appeal and the stay application are pending since 12 July, 2012. In the meantime, recovery notices have been issued to the Petitioner on 24 January, 2013 based on the C.B.E. & C. Circular dated 1 January, 2013. The circular issued by the C.B.E. & C. has been considered in the judgment of this Court in Larsen & Toubro, Writ Petition 878 of 2013 and connected cases decided on 1 February, 2013 [Larsen and Toubro Limited Vs. The Union of India and Others,]. In view of the judgment of this Court and the principle laid down therein, we dispose of the Petition with the following directions: The Petitioner shall appear before the Commissioner (Appeals), Mumbai on 4 March, 2013.

2. The Commissioner (Appeals) shall either dispose of the appeal within a period of six weeks thereafter, or if it is not possible to do so, dispose of the stay application within the aforesaid period. Until the Commissioner (Appeals) disposes of either the appeal or if that is not possible, the stay application as directed hereinabove, no steps shall be taken for the recovery of the demand

against the Petitioner for a further period of six weeks from 4 March, 2013. The Petition is accordingly disposed of. There shall be no order as to costs.