

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI**

PRINCIPAL BENCH - COURT NO. 1

Customs Appeal No. 51932 of 2016

(Arising out of Order-in-Original No. 01/PR/COMMR/CUS/IND/2016 dated 23.03.2016 passed by the Principal Commissioner of Customs & Central Excise, Indore)

DATE OF HEARING : 15.11.2017

DATE OF DECISION : 15.11.2017

M/s Bhandari Foils & Tubes Ltd.

Appellants

(Rep by Sh. A.K. Prasad, Adv.)

VERSUS

CCE, Indore

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Respondent

(Rep. by Sh A.K. Singh, DR)

**CORAM : HON'BLE MR. JUSTICE (DR.) SATISH CHANDRA, PRESIDENT
HON'BLE MR. V. PADMANABHAN, MEMBER (TECHNICAL)**

FINAL ORDER NO. 57984/2017

PER JUSTICE (Dr.) SATISH CHANDRA :

The present appeal is filed by the assessee-Appellants against the Order-in-Original No. 01/PR/COMMR/CUS/IND/2016 dated 23.03.2016 passed by the Principal Commissioner of Customs & Central Excise, Indore.

ON MERIT :

2. Shri A.K. Prasad, learned counsel for the assessee-Appellants, informs that, on merit, the Hon'ble Bombay High Court

has decided the issue against them in the case of **Balkrishna Industries Ltd. vs Union of India**, 2016 (334) ELT 440 (Bom.). Against the said order, SLP has been filed before the Hon'ble Supreme Court [SLP No. 8295/2016 with SLP No. 15409 & 16398 of 2016] where the Hon'ble Supreme Court vide its order dated 04.04.2016 has observed that "*In the meanwhile, proceedings in the show cause notice shall remain stayed.*"

3. Thus, the Hon'ble Supreme Court has granted the stay and the matter is *sub judice*. The learned counsel sought the permission to argue the matter on other aspects. But the fact remains that, when on merit the matter has been decided against the assessee-Appellants and matter is ceased before the Hon'ble Supreme Court, then ancillary demand cannot be adjudicated.

4. In view of the above, with the consent of both sides, liberty is granted to the assessee-Appellants to come again after having the final verdict from the Hon'ble Supreme Court, within the prescribed time, if advised so.

5. With the aforesaid liberty, the appeal stands disposed of.

(Dictated & pronounced in the open court)

(V. PADMANABHAN)
MEMBER (TECHNICAL)

(JUSTICE (Dr.) SATISH CHANDRA)
PRESIDENT