BEFORE THE HON'BLE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, REGIONAL BENCH, HYDERABAD

ST/EH/30074/2017/DB

Miscellaneous Application No. of 2016.

In the matter of Appeal No.ST/26234/2013 filed by M/s. Mehta & Modi Homes, Hyderabad against Order-in-Original No.07/2013 dated 17.01.2013 passed by the Commissioner of Customs, Central Excise & Service Tax, Hyderabad-I Commissionerate.

Applicant: - Commissioner of Customs, Central Excise &Service tax,
Service Tax Commissionerate, Hyderabad
11-5-423/1/A, Sitaram Prasad Tower,
Red Hills, Hyderabad-500 004

Respondent:- M/s Mehta & Modi Homes
5-4-187/3&4, II Floor. MG Road
Secunderabad - 500003

सीमाशुल्क, उत्पादशुल्क और सेवा कर अपील अधिकरण
20 JAN 2017
हैदराबाद/ Hyderabad
Customs, Excise & Service Tax Appellate Tribunal

MISCELLANOUS APPLICATION FOR EARLY HEARING OF APPEAL

The applicant herein is the Commissioner of Customs, Central Excise & Service Tax, Service Tax Commissionerate, Hyderabad.

2. The Applicant respectfully submits that the Respondent has filed an appeal vide Appeal No.ST/26234/2013 before the Hon'ble CESTAT against the Order-in-Original No. 07/2013 dated 17.01.2013 passed by the Commissioner of Customs, Central Excise & Service Tax, Hyderabad-I Commissionerate. Vide Misc. Order No.23565 /2015 dated 26.06.2014, the Hon'ble Tribunal waived pre-deposit and granted stay against recovery during the pendency of the appeal.

3. The Applicant humbly prays for grant of early hearing in this matter as sizeable amount of Rs.11.55 Crores (confirmed demand of Service Tax of Rs. 5,77,77,132, equal penalty under Section 78 and a penalty of Rs. 5,000/- under Section 77) apart from interest thereon.

4. The applicant would submit that as per the findings recorded in the Order-in-Original, it would appear that the respondent do not have a prima facie case on merits to succeed in his appeal before the Hon'ble CESTAT. It may be pertinent to mention that, as ordered by the Hon'ble CESTAT vide Suo Moto Miscellaneous Order No. 25453/2013 dated 02.04.2013 passed under Rule 41 of the CESTAT (Procedure) Rules, 1982, primary requirement of (i) absence of prima facie case of the appellant to succeed in appeal before

CESTAT and (ii) duty/tax involved should be more than 1 crore, are met with in the instant case necessitating filing of out of turn/early hearing petition.

5. In view of the foregoing, the applicant humbly prays this Hon'ble Tribunal to kindly consider ordering out-of-turn & early hearing of the subject appeal.

(Dr.D.PURUSHOTHAM)
COMMISSIONER

Verification

I, Dr. D. Purushotham, the above named applicant solemnly state that the above mentioned facts are true to the best of my knowledge.

Verified on this day of 9th January, 2017.

(Dr.D.PURUSHOTHAM)
COMMISSIONER