

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION NO. 16690 of 2016**

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HARJIT SING GREWAL....Petitioner(s)

Versus

UNION OF INDIA & 2....Respondent(s)

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Appearance:

HIRAK P GANGULY, ADVOCATE for the Petitioner(s) No. 1

NOTICE SERVED for the Respondent(s) No. 1

NOTICE SERVED BY DS for the Respondent(s) No. 2

PRIYANK P LODHA, ADVOCATE for the Respondent(s) No. 3

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CORAM: **HONOURABLE MR.JUSTICE AKIL KURESHI**

and

HONOURABLE MR.JUSTICE A.Y. KOGJE

Date : 21/11/2017

ORAL ORDER**(PER : HONOURABLE MR.JUSTICE AKIL KURESHI)**

1. The petitioner has filed this petition since his appeal before CESTAT came to be dismissed by an order dated 10.08.2015 in absence of the petitioner or his representative. The petitioner requested for recall of the order. Tribunal however by subsequent order dated 28.03.2016 refused to recall the order on the ground that the appeal was dismissed and the Tribunal has no power to review.

2. Learned counsel for the petitioner submitted that notice of hearing before the Tribunal was not served on him. No representation on his part could be made. Learned counsel Shri Lodha for the department however

submitted that this is subject to verification.

3. Going by the statement on oath made by the petitioner that there was no service of notice before the Tribunal of hearing of dated 10.08.2015, we are prepared to grant one more opportunity to the petitioner to appear before the Tribunal and to argue his case. It is not even the case of the department that the petitioner was recalcitrant and chronic defaulter.

4. In the result, the order of the Tribunal dated 10.08.2015 is set aside only qua the petitioner. The petitioner's appeal is revived and placed before the Tribunal which shall be decided afresh on merits. The petitioner shall appear before the Tribunal for first hearing after remand on 21.12.2017 without a formal notice from the Tribunal. This is to avoid any future controversy about the service of notice of hearing and the Tribunal would be at liberty to refix its hearing at a later date if otherwise not convenient on the said date.

5. Petition is disposed of.

(AKIL KURESHI, J.)

(A.Y. KOGJE, J.)

ANKIT