

As per Section 35G of the Central Excise Act, an appeal lies to the High Court from every order passed by the CESTAT, except an order, among other things, relating to classification (rate of duty) or valuation.

As per Section 35L, an appeal shall lie to the Supreme Court from an order passed by CESTAT among other things, relating to classification (rate of duty) or valuation. Thus, if Valuation or Classification is one of the issues among many other issues, the appeal from an order of the CESTAT lies to the Supreme Court and the High Court is barred from appellate jurisdiction. Similar provisions are applicable for Customs and Service Tax.

Another controversial issue is whether the remedy against an interim order of the CESTAT is in an appeal as envisaged above or under the writ jurisdiction of the High Court? For example, if CESTAT orders a pre deposit and passes a stay order, and if one is aggrieved by such interim order, Then whether he has to appeal as per Section 35G/35L of the Act, to High Court or Supreme Court, as the case maybe or whether he can approach the High Court by way of writ of mandamus?

Here I need to confess that, after a decade of practice in all

Courts of law, even today, on any appeal after CESTAT, I immediately search the books as to where lies the appeal, whether in the High Court or in the Supreme Court! Not only me, this is the status for 99 out 100 consultants in the country and the rest 1 percent should be out of practice!!!

Leave alone, the difficulties in approaching the High Court or the Apex Court and wait for years, nay decades, to get a decision, as the Central Excise, Customs and Service Tax are taxes to be levied uniformly all over the country and since, almost every decision of the Tribunal has pan-India implications, is it not better that there is only one Appellate Authority???

NTT, which had the hype and charisma of a blockbuster, has remained an unborn fetus, and stares the peril of being aborted before birth, is lying in some unwanted bin of the North Block. No one has any clue, as to what is the status of this Act, which, to me, is the best thing that could happen to one and all including to the tax itself, after CESTAT.