

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2026
(@ CIVIL APPEAL Diary No(s). 35962/2026)

ABHISHEK BANERJEE

APPELLANT(S)

VERSUS

M/S. EMTA COAL LIMITED & ANR.

RESPONDENT(S)

O R D E R

1. Leave to file Civil Appeal is granted.
2. Appellant has challenged the order passed by the Customs, Excise and Service Tax Appellate Tribunal ("CESTAT"), New Delhi in favour of the respondent(s) on the ground that the Tribunal has erroneously held the activities of Respondent No. 1 - Company, to be not amounting to taxable service, and therefore, the said respondent is not required to pay service tax.
3. Having gone through the judgment, we are of the considered view that it is a well-reasoned order, therefore, it does not warrant interference. It is contended that the impugned order has been passed basing the judgment of the Calcutta High Court in *Commissioner of Service Tax, Kolkata vs. Electrosteel Castings Limited*¹ therefore, if the law is not settled by this Court, similar parties would approach the authorities including

1 2025 (393) E.L.T 36 (Cal.)

CESTAT for seeking similar relief.

4. If the law has been settled by some decision of the High Court, it remains binding till it is set aside or overruled by the Supreme Court, and the Tribunal cannot ignore the judgment of the High Court. Till it is set aside or overruled, the same would hold the field and the Tribunal has not committed any error of law by relying upon judgment of the Calcutta High Court.

5. It is also to be noticed that the law has been settled by the Supreme Court also in Civil Appeal (Diary) No. 33259 of 2018 by order dated 05.10.2018 against an earlier order of the similar nature in the matter of *Marmugao Port Trust vs. Commissioner of Customs, Central Excise & Service Tax*².

6. In view of the above, we dismiss the appeal.

7. Pending application(s), if any, shall stand disposed of.

.....J.
[PRASHANT KUMAR MISHRA]

.....J.
[ATUL S. CHANDURKAR]

NEW DELHI;
June 12, 2026

2 2017(48) STR 69

ITEM NO.52

COURT NO.6

SECTION XVII-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

CIVIL APPEAL Diary No(s). 35962/2026

[Arising out of impugned final judgment and order dated 16-04-2026 in STA No. 75003/2026 passed by the Customs Excise and Service Tax Appellate Tribunal, Kolkata]

ABHISHEK BANERJEE

Petitioner(s)

VERSUS

M/S. EMTA COAL LIMITED & ANR.

Respondent(s)

IA No. 179143/2026 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

IA No. 179142/2026 - GRANT OF INTERIM RELIEF

IA No. 179138/2026 - PERMISSION TO FILE APPEAL

Date : 12-06-2026 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA

HON'BLE MR. JUSTICE ATUL S. CHANDURKAR

(PARTIAL COURT WORKING DAYS)

For Petitioner(s) : Mr. Anil Kumar, AOR

For Respondent(s) :

UPON hearing the counsel the Court made the following
O R D E R

1. Leave to file Civil Appeal is granted.
2. The Civil Appeal is dismissed in terms of the Signed Order placed on the file.
3. Pending application(s), if any, shall stand disposed of.

(MINI)
COURT MASTER (SH)

(AKSHAY KUMAR BHORIA)
COURT MASTER (NSH)