

**Kumtron Ltd. Vs. Collector of Central Excise**

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**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

**Decided On :** Dec-16-1996

**Reported in :** (1997)(91)ELT642TriDel

**Appellant :** Kumtron Ltd.

**Respondent :** Collector of Central Excise

**Judgement :**

1. In this stay application filed by M/s. Kumtron Ltd., it has been prayed that pre-deposit of the duty amount of Rs. 2,32,645/-, Rs. 1,700/- and the penalty amount of Rs. 50,000/- be waived and recovery stayed till the disposal of the appeal.

2. The matter relates to the use of brand name 'Hilltron' by the appellant M/s. Kumtron Ltd., both were U.P. State Govt. Undertakings and were engaged in the manufacture of electronic goods. Initially M/s.

Kumtron cleared radio cassette recorder (RCR) under their own brand name and as they could not market their product successfully, the brand name 'hilltron' which was already for the black and white television sets manufactured by M/s. Hilltron, an another U.P. State Govt.

Undertaking, was used. The deptt. had taken a view that as the brand name 'hilltron' did not belong to the appellants, they were not eligible for the small scale exemption.

2a. The matter was heard on 16-12-1996 when Shri M. Ganesan, Advocate with Shri T. Ganesan, Advocate appeared for the appellants. He stated that M/s. Kumtron Ltd. could not market their products and their manufacturing activities were very much restricted and limited.

Hilltron was also a State Govt. Undertaking and they were not otherwise engaged in the manufacture of RCR; they were manufacturing black and white television sets which were supplied to educational institutions.

It was his submission that the appellants are facing financial difficulties and that for the purpose of hearing their appeal, stay be granted.

3. Shri P.K. Jain, SDR in reply stated that prima facie Revenue had a good case and that there was no ground for granting stay.

4. In rejoinder, Id. Advocate stated that they had already executed a Bond for Rs. 8 lacs which is alive and in force while the sums demanded are only Rs. 2,84,345/- . He undertakes to keep the Bond alive till the disposal of the appeal.

5. Taking note of the financial difficulties faced by the appellants and the fact that they are State Govt. Undertakings primarily engaged in popularising electronic goods in backward hill areas, we consider that it is a fit case where waiver of the pre-deposit of the duty amount demanded could be granted. We also take note of the fact that the appellants have already executed the Bond as stated by the Id.Advocate and that the appellants have undertaken to keep this Bond alive till the disposal of the appeal.

6. Taking all the relevant considerations into account, we dispense with the pre-deposit of the duty and penalty amount and stay its recovery till the disposal of the appeal. The appeal to come up in its own turn.

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