. Vs. Commissioner of Central Excise, Kol - Iii, Commissionerate

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SooperKanoon Citation : sooperkanoon.com/1143770

Court : Kolkata

Decided On : Jun-03-2014

Judge : Girish Chandra Gupta

Appellant : .

Respondent : Commissioner of Central Excise, Kol – Iii, Commissionerate

Judgement :

ORDER
SHEET IN THE HIGH COURT AT CALCUTTA Special Jurisdiction [Central Excise].ORIGINAL SIDE CEXA No.14 of 2013 M/S.ASHOK ELECTRICAL STAMPINGS PVT.LTD .

Versus COMMISSIONER OF CENTRAL EXCISE, KOL - III, COMMISSIONERATE BEFORE: The Hon'ble JUSTICE GIRISH CHANDRA GUPTA The Hon'ble JUSTICE ASIM KUMAR MONDAL Date : 3rd June, 2014.

For Appellant : Mr.Arijit Chakrabarti, Advocate The Court : The subject matter of challenge in this appeal is a judgment and order dated 15th November, 2012 passed by the learned CustoMs.Excise and Service Tax Appellate Tribunal.

The impugned order reads as follows: Heard both sides.

2. Vide this Tribunals Stay Order No.S-935/Kol/2012 dated 06.08.2012, the Applicant were directed to make predeposit of 25% of the duty and report compliance on 15.10.2012.

The Order was pronounced after conclusion of the hearing and in the presence of their Advocate.

On 15.10.2012, the Applicant did not make the predeposit.

The case was accordingly posted to 15.11.2012.

Today also, the Applicant did not report the compliance.

In these circumstances, the Appeal is dismissed for non-compliance with the provisions of Section 35F of the Central Excise Act, 1944.

Dictated and pronounced in the open court. Mr.Chakrabarti, learned advocate appearing in support of the appeal, submitted that though the order dated 6th August, 2012 directing the appellant to make pre-deposit was passed in the presence of the learned advocate for the appellant, no copy of the order was served which prevented the appellant from making the pre-deposit.

Copy, according to him, was made available on 30th October, 2012.

On 15th November, 2012 prayer was repeated to grant some time so that the amount of pre-deposit could be deposited.

He submitted that the learned Tribunal did not accede to the prayer and proceeded to dismiss the appeal.

He contended that the appellant is interested in making deposit provided an opportunity is given to him.

No one appeared for the respondent.

Considering the submission made by Mr.Chakrabarti, time to make the pre-deposit is extended by four weeks from date.

In the event such deposit is made, the impugned order shall stand set aside and the appeal shall be heard by the learned Tribunal on merits.

In the event such deposit is not made, this appeal shall stand dismissed.

It is recorded that after the order was partly dictated, Mr.S.S.

Banerjee, learned advocate for the respondent, appeared.

(GIRISH CHANDRA GUPTA, J.) (ASIM KUMAR MONDAL, J.) sm AR[CR].