

Vickers Systems International Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jan-23-1998

Reported in : (1998)(75)LC287Tri(Mum.)bai

Judge : U Bhat, S T K.

Appellant : Vickers Systems International

Respondent : Cce

Judgement :

1. Appellant is absent. Appellant was represented before us on the last occasion, namely, 27.11.1997, when we adjourned the appeal to today at the request of the appellant's representative. We have heard Shri K.Srivastava, SDR.2. Under Order-in-Original dated 18.10.1989, the Assistant Collector confirmed the demand of Rs. 31,500. Appellant challenged this order before the Collector (Appeals) who dismissed the appeal without notice on the ground that the appellant had not deposited the amount of duty demanded nor filed an application for stay. This order is now challenged. A copy of the PLA has been produced before us which shows that on 1.8.1990 appellant had debited Rs. 31,500 pursuant to the Order-in-Original passed by the Assistant Collector. Appeal was filed before the Collector (Appeals) in April 1990 long prior to the PLA debit. It is possible that the appellant did not bring to the notice of the Collector (Appeals) the fact of subsequent debit. Nevertheless, the Collector (Appeals) should not have dismissed the appeal without notice to the appellant. We are satisfied that Section 35F of the Central Excise Act, 1944 had been complied with before dismissal of the appeal by the

Collector (Appeals).

3. We set aside the impugned order passed by the Collector (Appeals) and remand the appeal to the jurisdictional Commissioner (Appeals) for hearing and disposal of the appeal on merits.

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