Shook Industries Vs. Collector of Central Excise

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SooperKanoon Citation : sooperkanoon.com/13198

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Mar-30-1998

Reported in : (1999)(105)ELT249TriDel

Appellant : Shook Industries

Respondent : Collector of Central Excise

Judgement :
1. This stay application is filed by the applicants for the waiver of pre-deposit of duty amounting to Rs. 3,09,809.61, penalty of Rs. 30,000/- and Rs. 2,000/- in Appeal No. E/3814/90-B and penalty of Rs. 5,000/- and Rs. 1,0007- in Appeal No. E/3815/90-B respectively.

2. Heard both sides with reference to the application. Without going into the merits of the stay application, we find that appeal was filed as early as on 30-11-1990. Neither stay application was filed nor amount in question has been deposited and the party enjoyed this benefit for a period of about 8 years without bringing it into the notice of the Tribunal or of the department. We find it is unfair on part of the party to enjoy this benefit without filing any stay application. On this ground alone, the stay application is liable to be rejected. Accordingly we are of the view that the party is required to deposit Rs. 3,09,809.61 immediately. However, in view of the request made by the Counsel and giving credence to the submissions we make it clear that this amount in question is to be deposited in toto or in two instalments on or before 30-5-1998. Subject to compliance the balance amount of penalty of Rs. 30,0007-and Rs. 2,0007- in Appeal No.E/3814/90 is dispensed with. However,

M/s. Subhash Engg. are required to deposit Rs. 5,0007- and Rs. 1,0007- penalty in Appeal No. E/3815/90.

If the party do not deposit the above sums as stated above, these two appeals are liable to be dismissed without any further notice. Matter to come up for reporting compliance on 8-6-1998.