

Ceat Ltd. Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Dec-07-1998

Reported in : (1999)(112)ELT865Tri(Mum.)bai

Appellant : Ceat Ltd.

Respondent : Commissioner of Central Excise

Judgement :

1. The application is for modification of the stay order, and for correcting errors therein.
2. The Tribunal had asked the applicant to deposit Rs 10.00 crores out of the demands of duty from two factories totalling Rs. 20.15 crores and penalties of equivalent amount and personal penalties on its Directors.
3. Shri A. Setalwad, learned Senior Counsel for the applicant draws our attention to three stay orders passed by the Chennai Bench relating to identical matters which, he says, were not available and could not be produced when the application was heard. In the order passed in application of M/s. MRF Ltd., the Bench has accepted an offer made to deposit Rs 5.00 crores, in addition to Rs. 1.50 crores already deposited, out of a total demand for duty of Rs. 16.46 crores. In application filed by Vikrant Tyres, the amount required to be deposited was of Rs. 40.00 lacs against Rs. 3.30 crores demanded as duty. In the third order, M/s. Apollo Tyres had been asked to deposit Rs. 50.00 lacs (in addition to Rs. 65.00 lacs already deposited), against a total duty demand of Rs. 6.27 crores. While

agreeing that there is no precedent in such matters, he contends that the issues are identical and there is no significant difference in the case of present applicant which justifies it being asked to deposit amounts for higher than the others. He also points out that the order does not take note of the fact that there were two factories involving three demands in three orders and of the deposit already made of.

5. The Departmental Representative emphasises that the order in the case of Apollo Tyres the Tribunal held that there was a strong case on the question of limitation and there is no precedent in matters of stay. He also says that the challan concerned for payment of Rs. 2.00 crores have been made by Bhandup factory and says that it may for the proceedings pending.

6. We are prima facie unable to equate the applicant's case with that of Apollo Tyres. The Chennai Bench had noted that the Superintendent incharge of the factory had suggested change in the Tariff structure pointing out the possibility of the interchangeable of the two tyres in question. However, this was not a point made by the Superintendent during the beginning period in question. In the present case, as the Tribunal observed, the applicant had specifically taken a stand in reply to a query by the officers as to the difference between the two kinds of tyres that they were different in terms of structure and one.

It had indicated the number of points of difference. However, we do not find, for the purpose of this deposit, any significant difference between the applicant's case and that of MRF Ltd's. It is true that there is no precedent in such matters. However, reason and equity demands that persons similarly placed must be similarly treated. The covering letter to the challan in which Rs. 2.00 crores was deposited which is referred to in the challan makes it clear that the amount was deposited for clearance of tyres from Bhandup, Nasik and Waluj plants.

Even deviding this amount in proportion to the duty demand, it would then be held that Rs. 1.81 crores was on account of the demand from Nasik and Waluj plants with which we are concerned. This would, in effect, reduce the deposit to be made even on the basis of the earlier order to Rs. 8.00 crores approx. Taking into account the three orders cited of the Chennai Tribunal, we consider that interest of

justice would require a further reduction on the basis of the order in the MFR Ltd's case. A total of Rs. 6.00 crores would be appropriate. This would be appropriated in the following manner - Rs. 5.28 crores towards stay application E/Stay-1618/98, Rs. 42.00 lacs towards stay application E/Stay-1622/98 and Rs. 30.00 lacs towards stay application R/Stay-1620/98.

7. The amount in question is to be paid within three months from today if necessary by instalments. On deposit of this amounts, we waive deposit of the remaining amounts of duty and penalties imposed on all concerns and of the fine to redeem the plant and machinery ordered to be confiscated.

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