

B.H.E.L Vs. Collector of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Oct-26-1999

Reported in : (2000)(68)ECC70

Judge : S Kang, a T V.K.

Appellant : B.H.E.L

Respondent : Collector of Central Excise

Judgement :

1. The appellants filed the clearance from the Committee on Disputes to pursue the appeal. Today the application for waiver of pre-deposit of duty demand is listed for hearing.
2. In the impugned order the appeal filed by the appellants was dismissed by the Commissioner of Central Excise (Appeals) for not complying with the provisions of Section 35-F of the Central Excise Act. Therefore, along with the stay application the appeal is being taken up for disposal.
3. In the impugned order the appeal filed by the appellants was dismissed on the ground for non-compliance with the provisions of Section 35-F of the Central Excise Act. The contention of the appellants is that the impugned order was passed without affording any opportunity of hearing to the appellants.
4. The applicants filed a Misc. application for modification of the stay order which was also not considered before passing the impugned order.

5. Heard learned SDR, Shri R.D. Negi, and perused the appeal papers. In the impugned order the appeal was dismissed only on the ground of non-compliance of the provisions of Section 35-F of the Central Excise Act. No opportunity of hearing was granted to the applicants before passing the impugned order. Therefore, demanc of duty is waived and the appeal is being taken up for hearing. As discussed above the impugned order was passed without affording any personal hearing to the appellants, and therefore, the impugned order was passed in violation of principle of natural justice. Therefore, the impugned order is set aside and the matter is remanded to the Commissioner of Central Excise (Appeals), Bhopal for deciding the matter afresh after affording an opportunity of personal hearing to the appellants.

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