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Viswanath Khanna Vs. Cc

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Feb-21-2000

Reported in : (2000)(69)ECC280

Judge : S T G.R., a Unni

Appellant : Viswanath Khanna

Respondent : Cc

Judgement :

1. Shri L.P. Dhir, Ld. Advocate appearing for the appellant submitted that the appellant may be given relief in pre-deposit of penalty. He submits that the appellant is facing financial hardship and so he is not in a position to deposit the amount so ordered by the Hon'ble Delhi High Court. He submits that in case the appellant's application for modification of the order of the Hon'ble Delhi High Court is not acceded to, then the applicant's substantive right of Appeal, shall be lost.

2. He submits that this Tribunal had directed the appellant to deposit a sum of Rs. 25 lakhs. Against this, the appellant filed a Writ Petition before the Hon'ble Delhi High Court, which after hearing the appellant reduced the amount to Rs. 15 lakhs. He submits that against this the appellant filed an Appeal before the Apex Court which did not like to interfere with the order of the Hon'ble Delhi High Court. He submits that the amount thus to be deposited is Rs. 15 lakhs, but he is not in a position to deposit the same. He therefore, prays that the order may be modified and the waiver may be granted from depositing the penalty amount.

3. Shri T.A. Arunachalam, Ld. JDR submits that the orders have been passed by the Hon'ble Delhi High Court after considering the facts of the case keeping in view the financial hardship. The appellant therefore be directed to deposit a sum of Rs. 50,00,000 (Fifty lakhs) as against Rs. 15 lakhs as the period is over. He submits that since the Final order was passed by the Hon'ble Delhi High Court, the Tribunal does not have jurisdiction to interfere with the order.

4. We have heard the submissions of both sides. We find from the records placed before us and the submissions made that the Tribunal had directed the appellant to deposit a sum of Rs. 25 lakhs. Against this order, the appellant filed a writ petition before the Hon'ble Delhi High Court which after hearing the appellant, directed him to deposit sum of Rs.15lakhs. The period of deposit is over. Since the amount was reduced on account of financial hardship, therefore, we do not find any reason and jurisdiction to reduce the amount ordered by the Hon'ble Delhi High Court. In these circumstances, the application for modification of the stay order is rejected and the Appeal itself is rejected. In the circumstances, the Appeal is itself dismissed for noncompliance of the provisions of Rule 129-E of the Customs Act, 1960.

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