

Moosa Vs. Commissioner of Customs

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Mar-16-2000

Reported in : (2001)(127)ELT760TriDel

Appellant : Moosa

Respondent : Commissioner of Customs

Judgement :

1. Arguing the Miscellaneous Application, Shri G.K. Rana, Id. Advocate, prays that direction may be given to the authorities below to ensure compliance of the order within two months from the date of issue of this order.

2. Ld. Counsel submits that the Tribunal's Final Order Nos.

A/47-52/98-NB (DB) dated 27-1-1998 has not been complied with in spite of the fact that a Reference Application on the issue has been rejected by the Tribunal under its Order No. R/50/90-NB (DB), dated 3-7-1998. In spite of the fact that a number of reminders have been issued by the appellant to the authorities for complying with the order, the order has not been complied with. He submits that the order is very clear and should have been complied with within reasonable period, which has not been done. He submits that in similar circumstances this Tribunal in the case of Sahni Export House Pvt. Ltd. v. Commissioner of Customs, New Delhi reported in 1999 (113) E.L.T. 811, directed the Department to comply with the order within two weeks and also observed "that the above mentioned amount must carry interest at the rate of 18% from 1-1-1996 to the date of

payment". He submits that the authorities below should be directed to implement the order immediately and also to pay interest from the date of the order of the Tribunal.

3. Shri Mewa Singh, Id. SDR submits that the authorities below have already implemented a part of the order and are in the process of implementing the remaining part. He submits that he will ascertain the present position and seeks time to take up the matter with the authorities below.

4. We have heard the rival submissions. From the Final Order, we find that the order is specific and the order should have been complied with within reasonable time. However, the circumstances as to why the order has not been complied with are to be ascertained. In these circumstances, the DR is directed to check up the circumstances in which the order has been partly complied with and also to ensure that the order is complied with within two months from today. Insofar as charging of interest is concerned, we are not shown any provision in the Act which we administer to the effect that we are competent to order charging of interest on any amount. Since we are creatures of the statute, we have to abide by the provisions of the statute. We do not have any power of contempt also. In the circumstances, the only remedy is to ensure, through the Departmental representative that the order is complied with. In the circumstances, the DR will report compliance of this order on 25-5-2000.

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