

Garg Casteels Ltd. Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Mar-31-2000

Reported in : (2000)(69)ECC648

Judge : J T J.H.

Appellant : Garg Casteels Ltd.

Respondent : Commissioner of Central Excise

Judgement :

1. This case was posted for hearing of the stay application but the point of law being settled, the appeal was taken up for hearing on granting waiver of deposit of duty amounting to Rs. 67,604 and penalty of Rs. 19,500.

2. On considering the case of the appellant before him on the stay application, the Commissioner (Appeals) passed Order dated 24.12.98.

The appellants deposited Rs. 34,000 as a pre-condition to hearing of their appeal. He did not hear the appellants drawing strength from the Gujarat High Court judgment in the case of DCW v. CCE 1998 (97) ELT 424. The appellants did not comply with the order and their appeal was dismissed in terms of section 35F of the Central Excise Act, 1944.

Hence, the present appeal.

International], the Tribunal had in such circumstances held that the Commissioner was required to give a chance to the assesseees to be heard before dismissing the appeal before him. The Gujarat High Court also in their judgment in the case of Ricoh India Ltd. in which a reference was made to DCW judgment relied upon by the Commissioner in 1999 (34) RLT 231, had stressed the need for granting of personal hearing before disposal of stay application.

4. On this short point, the appeal is allowed and the proceedings are remitted back to the Commissioner for hearing the assesseees afresh both on their stay application and the main appeals. The assesseees shall co-operate fully.

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