

Commissioner of Central Excise Vs. Maa Sarda Rail Nirman (P) Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : May-16-2000

Reported in : (2000)(120)ELT366TriDel

Appellant : Commissioner of Central Excise

Respondent : Maa Sarda Rail Nirman (P) Ltd.

Judgement :

1. This is an application for stay of operation of the order of the Commissioner (Appeals), impugned in the appeal filed by the Revenue before the Tribunal. On a perusal of the application, I find that, though the merits of the case have been discussed by the applicants, no reason whatsoever has been stated in support of the prayer for stay of operation of the impugned order. It is not discernible as to how the Department will be prejudiced, or otherwise effected, by the operation of the impugned order.

2. I have heard learned JDR for the applicants. He submits that, unless the operation of the impugned order is stayed, the ratio of that order will be followed by all authorities below the lower appellate authority, in which event the interests of the Revenue will be effected. This argument is very much missing in the application before me. Any fact which is sought to be pleaded in support of an application should necessarily be stated in that application or at least in any affidavit filed in support of such application. I am, therefore, not inclined to accept the pleading of fact put forward now by the JDR.3. For the foregoing reasons, the present application is rejected. The appeal is posted for regular hearing to 2-8-

2000.

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