

Gopal Mills Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Aug-10-2000

Reported in : (2000)(122)ELT148TriDel

Appellant : Gopal Mills

Respondent : Commissioner of Central Excise

Judgement :

1. Shri A.K. Jain, Id. Counsel arguing the application for restoration of the appeal submits that the Counsel of the Managing Partner of the applicant was unwell; that the applicant had number of points to argue; that there are a number of decisions of the Apex Court and Tribunal wherein giving a personal hearing is vested right of the appellant. He submits that filing of a declaration under Rule 96ZP(3) was not only the issue, there were a number of issues. He submits that in view of the fact that there were number of issues to be discussed and in view of the fact that the applicant was really unwell and having regard to the decisions of Supreme Court in the case of J.K. Synthetics reported in 1996 (86) E.L.T. 472 and in the case of M.R. Narayanan reported 1990 (Supplementary) SCC 76 and further in case of Savithri Amma Seethamma reported in 1983 (1) SCC 401. Id. Counsel, therefore, prays that the impugned order may be recalled and the appeal may be restored to its original number.

2. Shri V.M. Udhoji, Id. DR submits that the major issue in appeal was filing of declaration under Rule 96ZP(3) and since the issue has already been decided by the Apex Court in the case of Venus Castings Pvt. Ltd. reported in 2000 (117)

E.L.T. 273. Therefore the appeal was rightly rejected even on merits.

3. We have heard the rival submissions. Having regard to the contention of the applicant that declaration under Rule 96ZP(3) was not the only issue but a number of items were also necessary to be argued, we recall the order and restore the appeal to its original number. The matter shall now come up for hearing on 26.09.2000.

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