Lata Industries Vs. Commissioner of Central Excise

Lata Industries Vs. Commissioner of Central Excise

SooperKanoon Citation : sooperkanoon.com/19212

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Sep-23-2000

Reported in : (2001)(73)ECC153

Judge : S T Gowri, J Srinivasamurthy

Appellant : Lata Industries

Respondent : Commissioner of Central Excise

Judgement :

1. The application is for waiver of deposit of duty of Rs. 13,457 and penalty imposed on the applicant.

2. The duty has been demanded and penalty imposed on the view of the Asst. Commissioner confirmed by the Commissioner (Appeals). Benefit of Notification 175/86 will not be available consequent upon its amendment by Notification 55/92.

4. The effect of the amendment was that the manufacturer who availed of the benefit in terms of Clause (a) of paragraph 4 would no longer be entitled to the benefit if it did not produce small scale registration.

The contention of the applicant is that it availed of benefit under Clause (b) of paragraph 4.

5. The declaration filed by the applicant to first avail of the notification was in 1991-92. This would only be under Clause (a) of paragraph 4. There is nothing to show

that the applicant availed of this notification in any of the preceding years.

6. We therefore do not prima facie find a case for holding that the applicant was entitled to the exemption. We therefore direct deposit of the entire duty within two months from today. Thereupon we waive deposit of the penalty imposed and stay its recovery. Compliance on 27.10.2000.