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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Mar-13-2001

Judge : S T Gowri, P Bajaj

Appellant : Ablaze Process System (P) Ltd.

Respondent : Commissioner of Central Excise and

Judgement :

1. Restoration of the appeal, which was dismissed by order dated 12.12.1997 by the Tribunal on the ground that deposit of Rs. 11 lakhs which was ordered had not been made, is prayed for in this application.

Counsel for the applicant contends that, subsequent to the order, the department has seized plant and other goods belonging to it, of the value of Rs. 8.5 lakhs. Therefore, there has been substantial compliance with the stay order. He also contends that the question involved in the appeal, classification of laboratory glassware, has also since been settled.

2. We are unable to accept either of these contentions. Acceptance of them, in effect, would mean that the appeal of any person would have to be restored after sufficient passage of time. In every case that the appeal is dismissed for non-compliance, with the stay order the department resorts to recovery of dues sooner or later. All disputes which give rise to appeals are settled in due course. Accepting these contentions would result in nullifying the provisions of Section 35F of the Act.