

Texport (India) Vs. Commissioner of Customs, Mumbai

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Apr-16-2001

Appellant : Texport (India)

Respondent : Commissioner of Customs, Mumbai

Judgement :

1. The application is for waiver of deposit of penalty of Rs 2.00 lakhs imposed under Section 112 of the Act.
3. The penalty has been imposed on the finding of the commissioner that the applicant has wrongly claimed the benefit provided in the Duty Exemption Pass book(DEPB) Scheme. the contention that entry 43 of the Schedule to the Scheme laying down the rates was at the relevant time ambiguously worded, and before its amendment permitted and interpretation that it covered only the hosiery which was to be made from 100% polyester fabric has prima facie merits, as does the contention that the goods were covered by tow entries-entry 43 and entry 47. The further contention that clause (d) of section 113 of the Act would not be available for confiscation, since the goods were neither restricted nor prohibited is also prima facie acceptable and therefore no penalty is imposable.
4. Accordingly, we waive deposit of the penalty imposed and stay its recovery.