Commissioner of Central Excise, Vs. M/S. Mehta Cold Forge and Others

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Apr-23-2001

Judge : M J Balasundaram, Judicial, S V Agrawal, Technical

Appellant : Commissioner of Central Excise,

Respondent : M/S. Mehta Cold Forge and Others

Judgement :

1. The above applications have been filed by the Revenue for condition of delay of about 61/2 years in filing the appeals against Order-in-Original No.43/91 dated 21.5.91 passed by the Collector of Central Excise, Aurangabad dropping the proceedings for demand of duty and penal action against M/s.Mehta Cold Forge and M/s.Nasik Industrial Engineering Corporation and their partners.

2. At the outset, we note that in the supplementary appeals, M/s.Mehta Cold Forge has been shown as respondent although the same unit was already shown as respondent in the Revenue's appeal filed within time i.e. E/2217-2218/93-B. Be that as it may, even if the present appeals are to be treated as having been filed against the partners of the units, even then the decision of the Larger Bench of the Tribunal in the case of CCE vs. AZO Dyes and Chemicals and Others reported in 2000 (39) RLT 403 will operate against the Revenue. The Larger Bench has held that the Tribunal has no power to condone the delay in filing of the appeal by the Revenue beyond the period of 3 months allowed under Section 35E(4) of the Central Excise Act.Following the ratio of the above decision, we reject the COD applications.As a result the supplementary appeals are dismissed as time barred.