M/S. Bhel Vs. Commissioner of Central Excise,

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Apr-25-2001

Appellant : M/S. Bhel

Respondent : Commissioner of Central Excise,

Judgement :

1. For reasons recorded below, we dispense with the predeposit of total duty of Rs.3,68,396/- and a total penalty of Rs.lakhs and stay recovery thereof and proceed to hear and dispose of the appals themselves with the consent of both sides.

2. In this case 3 separate adjudication orders were passed by the Assistant Commissioner confirming the duty demands on off-cuts of different sizes arising in the course of manufacture of electric stamping and lamination out of silicon steel sheets, holding them to be classifiable under CET Sub-heading 7212.50 attracting duty at the appropriate rate, and imposed penalties on the appellants. Aggrieved by the levy of duty and imposition of penalty, the appellants filed appeals before the Commissioner (Appeals), along with applications for waiver of predeposit. The lower appellate authority passed exparte stay orders directing predeposit of the entire amount of duty within 3 weeks. On receipt of the interim stay order, the appellants filed a miscellaneous application for reconsideration and rehearing after notice to them. However, the Commissioner (Appeals) has passed the impugned order dismissing their appeals without hearing and also without considering their modification application. Since principles of natural justice have been violated by

not granting the assessees the opportunity of personal hearing at any stage, what so ever, interests of justice require that the impugned order is set aside and the cases remanded for fresh decision to the Commissioner (Appeals). We order accordingly. He shall first dispose of the applications filed in terms of Section 35F of the Central Excise Act and then dispose of the appeals themselves. Fresh orders on stay and on the appeals shall be passed after extending a reasonable opportunity of hearing to the appellants.