

**A. Sivan Vs. Commissioner of Customs and**

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**SooperKanoon Citation :** [sooperkanoon.com/26607](http://sooperkanoon.com/26607)

**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

**Decided On :** Nov-07-2001

**Appellant :** A. Sivan

**Respondent :** Commissioner of Customs and

**Judgement :**

1. This application is for waiver of pe-deposit of duty amounting to Rs. 7,31,04,575/- and penalty totally amounting to Rs. 9,52,49,392.83.

These penalties are imposed on proprietary units of which the applicant Shri A Sivan is the common proprietor. The duty was confirmed on the goods manufactured and cleared without payment of duty and also on the goods cleared under exemption notification to which they were not entitled.

2. In the said application it is claimed that the applicant has no money. An affidavit to that effect has also been filed. Counsel for the applicant submits that the factory of the applicant was attached by the department under Rule 230 of the Central Excise Rules, 1944 and that there are no other properties capable of being attached. He, however, submits that the applicant has no objection to the department locating any property for attaching or to the disposal of the properties already under attachment. The current balance sheet is also filed showing assets which could be attached.

3. In view of this submission we grant the prayer for waiver of pre-deposit leaving it to the department to recover all or part of the sums involved by legal means.

