

Nilon Machine Tools Vs. Commissioner of C. Ex. and Cus.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Mar-04-2002

Reported in : (2002)(144)ELT618Tri(Mum.)bai

Judge : S T Gowri, G Srinivasan

Appellant : Nilon Machine Tools

Respondent : Commissioner of C. Ex. and Cus.

Judgement :

1. The application by the appellant for modification was taken up for hearing today with the consent of both sides.

2. Of the two grounds in the application, the one relating to the use of the brand name "Vijay" has already been considered and no reasons are advanced as to why we should consider the same again. The other claim is of financial hardship. The Tribunal had noted that no evidence whatsoever in support of the financial hardship has been produced and hence declined to consider it. The evidence now sought to be considered is a copy of the profit and loss account for the year ending 31 March, 2001. When asked why this evidence could not be produced when the stay application was being heard, the Counsel for the applicant says that the balance-sheet was required to be prepared by the Chartered Accountant and said that the Chartered Accountant took time to verify the details. When he was asked why unverified copy could not be produced on the last occasion, he has no answer.

3. It is well settled that a stay application cannot be heard in piecemeal. If there were valid reasons for the applicant not to produce evidence in support of financial hardship on the last occasion, the Tribunal is certainly required to consider such evidence. However, no such valid reason is advanced. It has not sought any adjournment on this ground nor is there any claim. We, therefore, decline to consider this plea.

4. If the applicant does not deposit the amount in question within 45 days from today and report compliance on 28-3-2002, its appeal is liable to be dismissed.

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