Commissioner of Central Excise Vs. Manmade Spinners (i) Ltd.

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SooperKanoon Citation : sooperkanoon.com/30988

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : May-22-2003

Reported in : (2003)(159)ELT884Tri(Mum.)bai

Judge : S T Gowri, G Srinivasan

Appellant : Commissioner of Central Excise

Respondent : Manmade Spinners (i) Ltd.

Judgement :

1. By its order passed on stay application filed by the respondent to this application and others, the Tribunal ordered deposit by it of Rs. 40 lakhs. On 30-9-2002, it accepted compliance.

2. This application by the Commissioner seeks to contend that the applicant has not complied with the Tribunal's order because the deposit ought to have been made in cash or from the personal ledger account, and the deposit made by debit to the Modvat account is not acceptable.

3. We must emphasise that it is not the business of the Commissioner to sit in judgment upon the order of the Tribunal accepting the compliance shown by the applicant. The Tribunal would not have blindly accepted compliance; but has done so after noting the deposit made by debit to the RG 23A account.

4. Even otherwise the Commissioner's application is entirely devoid of merit. The order of the Tribunal in Fibre Glass Insulation v. CCE, which the application relies

upon, found that, on the facts before it, the assessee was required to deposit the amount either in cash or by debit to the personal ledger account. No such condition has been laid down by the Tribunal in the stay order under reference. If authority is needed for this purpose, the decision of the Tribunal in Birla Yamaha Ltd. v. CCE - 1996 (83) E.L.T. 396 holding that payment can be made debiting to the Modvat account is sufficient. Therefore, the deposit made by the assessee in this case is perfectly valid.