

Frick India Ltd. Vs. C.C.E.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Aug-26-2003

Reported in : (2001)(78)ECC303

Judge : K Usha, S Kang, N T C.N.B.

Appellant : Frick India Ltd.

Respondent : C.C.E.

Judgement :

1. These are the applications filed by the appellants in appeal nos.

E/1151/2000-NB(A) and E/1192/2000-NB(A) seeking a direction to the respondents to refund an amount of Rs one crore paid by the applicants as pre-deposit pursuant to the direction given by this Tribunal in Stay Order No. 194-195/2000 dated 10.08.2000. The final order was passed in the appeals on 18.09.2001 remanding part of the claim in appeals i.e.

to the extent of Rs 2,42,64,500/-. Applicants, therefore, submit that since the appeals have been disposed of, they are entitled to refund of an amount of Rs one crore deposited as pre-deposit under Sec. 35F of the Central Excise Act.

2. Shri N.K. Bajpai, Sr. Counsel appearing on behalf of the respondents, submits that the applicants are not entitled for the refund of pre-deposit in view of the fact that the revenue has filed appeals before the Hon'ble Supreme Court of India against the final order dated 18.09.2001 passed by the Tribunal. Ld. Counsel

brought to our notice the interim order passed by the Hon'ble Supreme Court of India on 01.03.2002 in above appeals which reads as under : 3. It is seen from the above order that the stay granted by the Hon'ble Supreme Court is limited to the remand proceedings. Therefore, we do not find any reason to reject the claim of the applicants before us for refund of pre-deposit made by them under Sec. 35 F of the Central Excise Act. The applicants, further, submit that they are entitled to interest on the amount of the pre-deposit. In the light of the decisions of the Hon'ble Supreme Court in *Kuil Fireworks Industries vs.*

C.C.E. reported in 1997 (95) ELT page 3 and that of the Calcutta High Court in *Eastern Coils Pvt. Ltd. vs. Commissioner of Central Excise, Kolkata* reported in 2003 (153) ELT 290, the prayer has to be granted.

Following the ratio in the above decisions, we have directed payment of interest in other similar applications.

4. We, therefore, direct the respondents to refund the amount of Rs one crore deposited by the applicants as pre-deposit in pursuance of our order dated 10.08.2000 within a period of four weeks. Applicants will be entitled to interest @ 12 % from the date of expiry of 3 months from the date of receipt of Final Order dated 18.09.2001 till the date of payment.

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