Mayfair Vs. Commissioner of Central Excise

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SooperKanoon Citation : sooperkanoon.com/34217

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Feb-19-2004

Reported in : (2004)(167)ELT191Tri(Mum.)bai

Judge : S T S.S., K Kumar

Appellant : Mayfair

Respondent : Commissioner of Central Excise

Judgement :

1. After hearing both sides and considering that the delay of 15 days in filing is satisfactorily explained due to sickness in the family of the Consultant who was assigned the job of filing this appeal and the ld. DR does not object to the contention of the delay. It is found that the duty of Rs. 6,96,985/- and penalty of equivalent amount on the assessee and Rs. 7,00,000/- under Rule 209A on the Director is the consequence of the alleged recovery of Excise duty from the buyers of the goods which were not deposited in the Government treasury but was required under Section 11D is the issue. Prima facie if any amount is recovered representing it to be Excise duty, the same is required to be deposited. However, mandatory penalty of equivalent amount and penalty under Rule 209A are the questions that have to be decided along with the final decision in this case. At this prima facie stage we would order pre-deposit of Rs. 6,96,985/- to meet the requirements of Section 35F of the Central Excise Act, 1944 and waive, further pre-deposit and stay recovery thereof if the compliance of the pre-deposit order is reported on 20-4-2004. Stay applications disposed off in above terms.