

**Multiline Circuits Vs. Commissioner of Central Excise**

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

**Decided On :** Mar-30-2004

**Judge :** A M Moheb

**Appellant :** Multiline Circuits

**Respondent :** Commissioner of Central Excise

**Judgement :**

1. The application for waiver of pre-deposit of duty and penalty arose out of the order of the Commissioner (Appeals) who in the impugned order confirmed the order of the lower authority.
2. The applicant is a manufacturer of printed circuit boards falling under chapter sub-heading 8534.00 of the Central Excise Tariff Act, 1985. The applicant failed to discharge duty liability by 15<sup>th</sup> of the following month for clearances effected during the previous fortnight.

The Deputy Commissioner ordered forfeiture of this facility to pay duty on fortnightly basis as the applicant failed to discharge duty in accordance with the provisions of Rule 8 of the Central Excise Rules and ordered that the applicant should discharge duty liability consignment-wise through account current. In spite of this order, the applicant discharged their duty by debiting CENVAT credit. The duty paid through CENVAT credit during the months of November and December 2002 came to Rs. 1,36,722/-. The allegation therefore was that the applicant contravened Rule 8(3) read with Rule 4 of the Central Excise Rules. The Deputy

Commissioner therefore demanded duty of the said amount and imposed penalty of equal amount. In appeal, the Commissioner (Appeals) confirmed the order of the lower authority. Hence the application.

3. I observe that the applicant failed to make out a case for complete waiver of duty and penalty. Under the Central Excise Rules once an assessee is ordered to discharge duty liability on clearances consignment-wise and through account current, he is obliged to do so.

The applicant failed to do so inasmuch as it cleared the goods by debiting CENVAT credit. The Commissioner (Appeals) rightly rejected the appeal.

4. Having regard to the facts of this case, I direct the applicant to deposit the entire duty demanded. Upon such deposit further deposit of penalty is waived.

5. The pre-deposit of duty should be made within eight weeks from the receipt of this order failing which the appeal will be dismissed without further notice to the applicant.

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