

Delite Processors Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Feb-18-2005

Reported in : (2005)(183)ELT189TriDel

Judge : A T V.K., P Bajaj

Appellant : Delite Processors

Respondent : Commissioner of Central Excise

Judgement :

1. Shri Bipin Garg, learned Advocate submitted that the Tribunal has directed M/s. Delite Processors vide Stay Order No. 562/2004-B to deposit a sum of Rs. 2.5 lakhs; that as they had deposited only Rs. 50,000/- within the time given by the Tribunal, the same was extended by another four weeks on the request made by the Applicants on 4-1-2005; that in an identical issue in the case of M/s. M. B. Dyers, Appeal No. E/3248-49/2004-B, the Tribunal has granted unconditional stay vide Stay Order No. 374-375/04-B dated 13-8-2004. The learned Advocate further, submitted that as the issue involved in the present Appeal is identical, their Stay Order may be modified and they may not be directed to deposit any further sum. Opposing the prayer Ms. Charul Barnwal, learned Senior Departmental Representative submitted that once the Stay Order has been passed and time has also been extended for complying with the same, there is no justification for the Applicants to come up for modification.

2. We have considered the submissions of both the sides. Any direction given in a Stay Order does not act as a precedent. Learned Senior Departmental Representative has rightly submitted that the last extension was granted to the Applicants on their request for complying with the direction contained in the Stay Order. It is not open to them to come up now for modification of the Stay Order. We do not find any merit in the application which is rejected. As the Applicants have not complied with the Stay Order passed by the Tribunal, we dismiss the Appeal filed by them. However, in the interest of justice, we give them the liberty to come up for restoration of Appeal if the remaining amount as directed in the Stay Order is deposited within three weeks from today.

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