

Aero Enterprises Vs. Commissioner of Customs

Aero Enterprises Vs. Commissioner of Customs

SooperKanoon Citation : sooperkanoon.com/38292

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Mar-01-2005

Reported in : (2005)(184)ELT393TriDel

Judge : A T V.K., P Bajaj

Appellant : Aero Enterprises

Respondent : Commissioner of Customs

Judgement :

1. This is an application by M/s. Aero Enterprises for staying the operation of the impugned order dated 4-11-2004 passed by the Commissioner of Customs.
2. Shri M.M. Alam, learned Advocate requested for adjournment as the senior advocate was not available. We observe that this stay application has come up for hearing earlier on 9-2-2005 when also adjournment was sought by the learned Advocate. In view of this, we do not grant any stay. Shri M.M. Alam, learned Advocate did not argue the matter. We, therefore, heard Shri P.K. Rai, learned DR and perused the records.
3. The applicants had imported laser engraver which has been ordered to be assessed by the Department without allowing the benefit of Notification No. 21/02-Cus., Sl. No. 251 (1); that the applicants filed an application for staying the operation of the order before the Commissioner (Appeals) who under the interim order has dismissed their stay application holding that under the provisions of

Section 129E of the Customs Act, stay application is to be considered when there is a demand of duty and interest and penalty and in the present case as neither duty nor interest had been demanded nor any penalty has been levied, the stay application is non-maintainable. The applicants have filed the appeal against the interim order. We do not find any reason to interfere with the impugned order of the Commissioner (Appeals) as the stay under Section 129E of the Customs Act is only granted in respect of duty, penalty and interest and not against the operation of the order. Accordingly, we dismiss the stay application and consequently the appeal is also dismissed.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com