# V.K. Vora Vs. Commissioner of Central Excise

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**SooperKanoon Citation** : sooperkanoon.com/38798

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

**Decided On :** Apr-19-2005

**Reported in** : (2005)(187)ELT264Tri(Mum.)bai

**Judge** : J Balasundaram, Vice-

**Appellant** : V.K. Vora

**Respondent** : Commissioner of Central Excise

**Judgement** :

1. The application for waiver of pre-deposit of penalty of Rs. 1 Lakh imposed upon the applicant herein who is the Vice-President of M/s.

Motorol Speciality Oils Ltd. arises out of the order of the Commissioner of Central Excise (Appeals).

2. Penalty has been imposed on the ground that the applicant had knowledge that excisable goods were removed from the factory without payment of duty.

3. On hearing both sides, I find prima facie contention of learned Counsel for the applicant that the Provision of Rule 26 of the Central Excise Rules, 2002 prima facie do not cover the present case. As prima facie the applicant has not dealt with any excisable goods which is the pre-requisite for imposition of penalty under Rule 26. I, therefore, waive the pre-deposit of penalty and stay recovery, thereof pending the appeal.