

**Venus Electronics and Control Vs. Commr. of Cus.**

**Venus Electronics and Control Vs. Commr. of Cus.**

**SooperKanoon Citation :** [sooperkanoon.com/41916](http://sooperkanoon.com/41916)

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

**Decided On :** Feb-22-2006

**Judge :** A Wadhwa, S T S.S.

**Appellant :** Venus Electronics and Control

**Respondent :** Commr. of Cus.

**Judgement :**

1. Heard both sides. The appellants are a unit registered in Kandla Special Economic Zone, Gandhidham Kutch, Gujarat. This application has been filed against the dismissal of their appeal for not having deposited an amount of duty of Rs. 13,66,886/- directed to be deposited within a period of six months vide Order No. 1296/94/WZB, dated 25-7-94. This order of dismissal was made vide Order No. 1856/98/WRB, dated 4-8-98/C-II.2. The applicant submits that now the applicant has deposited the entire amount of duty as ordered by this Hon'ble Court in the stay application. In addition, the applicant has also paid the amount of penalty. Thus, there is no outstanding due against the applicant. The details of the payment are as under.

---

1 TR-6 Challan No. VECPL/2004/2005/001, Rs. 12,66,886/- dtd 8-9-04 deposited in State Bank of India, 2 TR-6 Challan No. NIL, dated 4-10-02 depos- Rs. 2,00,000/- ited in State Bank of India, Kandla SpecialInventa Electronics Pvt Ltd. v. Commissioner wherein the Apex Court had granted leave in S.L.P (C) No. 16935 of 2002 filed by the assessee against the order of the Tribunal having dismissed

the restoration application for failure of appeal dismissed for failure to comply with the condition of pre-deposit ordered in that case. The deposit in that case was made by the applicant after four years of passing the stay order the application for restoration of the appeal were dismissed the stay order. As the financial position of the Company was not sound & they could comply with the pre-deposit order only after four years. In this case before us also the pre-deposit has been effected in full along with the penalty amounts; Compliance has been effected only in September, 2004 i.e. above ten years after the pre-deposit order made on 25-7-94.

3. Since right to appeal is a statutory right and pre-deposit requirement under Section 129E are only in nature of procedural requirements therefore for delay in meeting the pre-deposit requirement, the primary right of appeal cannot be extinguished.

Following the decision of the Apex Court in the case of Inventa Electronics Pvt. Ltd. as reported at . This appeal is required to be restored to its original position and is to be listed for regular hearing. Application disposed in above terms.

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**