

Deora Wire and Wires Vs. Collector, Central Excise and Customs and ors.

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Court : Madhya Pradesh

Decided On : Jul-08-1993

Reported in : 1993(44)ECC252

Judge : V.S. Kokje and ; R.D. Shukla, JJ.

Appeal No. : Miscellaneous Petition No. 1387 of 1993

Appellant : Deora Wire and Wires

Respondent : Collector, Central Excise and Customs and ors.

Advocate for Pet/Ap. : Shri. J.P. Gupta

Judgement :

ORDER

1. Heard Shri J.P. Gupta, learned Counsel for the petitioner and Shri B.G. Neema, learned Standing Counsel, who appears on an advance copy of the petition and LA. being supplied to him.

2. A very short question is involved in this case and, therefore, it is being disposed off finally at this stage alone. The petitioner's main complaint is against the order dated 18-6-93 passed by the Customs, Excise and Gold (Control) Appellate Tribunal, New Delhi (for short 'CEGAT'), rejecting the petitioner's application for modification of the order disposing off application for exemption from the condition of pre-deposit for maintainance of an appeal before the CEGAT. The petitioner

had contended before the CEGAT that after the earlier order, or which modification was sought, was passed, the CEGAT itself in Collector of Central Excise, Bombay-II v. Nisha Conductors (1993 (21) ETR 520 had decided the point involved in the case and the decision upheld the contention raised by the petitioner in its appeal. It was also contended that the demand was clearly barred by limitation on the admitted facts of the case. The Tribunal refused to modify the order mainly on the ground that it would amount to a review of the earlier order in which the pre-requisites are not fulfilled. The CEGAT did not go into the question as to whether the decision in the Nisha Conductors' case (supra) fully covered the case of the petitioner or not.

3. Having heard the learned Counsel, we have come to the conclusion that it would be just and proper in the circumstances of the case to dispose off the petition by making a time bound direction for hearing and disposal of the appeal itself. Normally, we would have set aside the impugned order of the CEGAT and directed it to consider afresh the impact of decision in Nisha Conductors' case (supra) on the appeal. However, loss of time and duplication of procedure involved in such a course would not justify making such an order but it would be in the interest of justice and all concerned that the appeal itself is disposed off within two months.

4. We, therefore, set aside the impugned order dated 18-6-93 passed by the CEGAT and direct that the appeal itself shall be heard without enforcing the condition of deposit of Rs.10 lacs. 22-7-1993 is already fixed in the case for report of compliance with the impugned order. On that date the parties shall appear before the CEGAT and a date for final hearing of the case shall be fixed by the CEGAT. The case shall be disposed off within two months from 22.7.93. C.C. today on usual charges.