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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Nov-17-1989

Reported in : (1990)(28)LC416Tri(Delhi)

Judge : R T I.J., S Maruthi, G B Deva

Appellant : Electronics Ltd.

Respondent : Cce

Judgement :

1. This is an application for modification of stay order No. 113/89-A dated 28th June, 1989.

2. It is submitted that Rs. 2,41,77,994/- which was referred to by this Tribunal as net profit is not actually a net profit but is net accumulated loss. The bank balance of Rs. 30, 10,431/- is not enough to meet their requirement of a months working capital as they have to pay over Rs. 50 lakhs central excise duty and Rs. 8 lakhs sales tax, and Rs. 6 lakhs wage bill. He also submitted that the accumulated loss is as on 31st March, 1989 is Rs. 352 crores. The company is a sick company and is under nursing programme of the banks since 1984. The unit is being funded at subsidised rates of interest under specific instructions of Reserve Bank of India for rehabilitation, by the Union Bank of India, New Delhi and Canara Bank of India, Faridabad.

Therefore, it is submitted, if the appellants are directed to deposit Rs. 4 lakhs it would result in irreparable loss and hardship to them, and prayed for dispensing with pre-deposit unconditionally.

3. The SDR opposed the modification application, and brought to our notice that cash and bank balances to the tune of Rs. 30,10,431/- are available.

4. The financial hardship pleaded by the appellants is not that grave as to prevent them from depositing the minimum of Rs. 1 lakh in view of availability of cash and bank balances to the tune of Rs. 30 lakhs. The amount due is a past liability which requires priority treatment.

Therefore, we dispense with pre-deposit of the duty demanded subject to the condition of the appellants depositing Rs. 1 lakh within 8 weeks from the date of receipt of this order Recovery proceedings are also stayed. The stay order No. 113/89-A dated 28th June, 1989 is accordingly modified.