

Collector of Customs Vs. Garware Nylons Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Mar-12-1991

Reported in : (1991)LC150Tri(Delhi)

Appellant : Collector of Customs

Respondent : Garware Nylons Ltd.

Judgement :

1. Arguing for the COD application, the learned DR for the Revenue states that the impugned order was communicated to the appellant-Collector on 12/9/1983. The time limit for filing the appeal, therefore, expired on 12/12/1983. The appeal has, however, been filed on 5th July 1984. There is, thus, a delay of 6 months and 23 days. He reiterates the grounds for condoning the delay as given in the COD application which states that the appeal could not be filed earlier within the time limit of 3 months as the current prices of the goods were to be ascertained before coming to a conclusion to prefer an appeal. The learned Solicitor, Dr. N.R. Kantawala, on the other hand says that the ground given is baseless because the question of ascertaining the current prices hardly arises in the appeal. In any case, he submitted that so much of delay, i.e. of 6 months and 23 days could not be taken for ascertainment of a certain small point. He, therefore, submits that the delay has not been explained at all, leave apart adequate explanation of the delay of 6 months and 23 days. In support of his plea for rejecting the condonation of delay application, he relies on Tribunal's decision in Collector of Customs v. Hindustan Motor Limited reported in 1991 (51) ELT 400. This judgment of the

Tribunal relies inter alia Supreme Court's judgment in the case of Union of India v. Tata Yodogawa Limited and Anr. reported in 1988 (38) ELT 739 SC.2. Having considered the pleas advanced on both sides, we are not impressed by the Appellant-Collector's plea that the delay of 6 months and 23 days was caused on account of an ascertainment of the current prices of the goods. Such a long time in ascertaining the current prices merely speaks of negligence of the appellant and dealing with the file in a casual manner. Accordingly, relying on a number of decisions, particularly, on Supreme Court's decision in the case of Tata Yodogawa Limited mentioned supra, we hold that there is no sufficient cause for late filing of the appeal. Hence the COD application is rejected. Consequentially, the appeal is also dismissed as time barred.

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