

Max India Ltd. Vs. Commissioner of C. Ex.

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Court : Punjab and Haryana

Decided On : Mar-27-2008

Reported in : 2008[12]STR695

Judge : Satish Kumar Mittal and; Rakesh Kumar Garg, JJ.

Appellant : Max India Ltd.

Respondent : Commissioner of C. Ex.

Disposition : Petition dismissed

Judgement :

Satish Kumar Mittal, J.

1. The petitioner has filed this writ petition under Articles 226/227 of the Constitution of India for quashing the order dated 29-11-2006 (Annexure P-8) passed by the Commissioner, Central Excise Range Rail Majra (Nawanshahar) in exercise of the power under Section 84 of the Finance Act, 1994, by revising the order dated 30-11-2004 (Annexure P-4), passed by the Assistant Commissioner, Central Excise Division, Phagwara.

2. At the time of issuance of notice of motion, counsel for the petitioner made a statement that to show its bona fide, the petitioner would deposit a sum of Rs. 12.00 lacs with respondent No. 2. As per the statement, the said amount has been

deposited.

3. Written statement on behalf of the respondents has been filed and the arguments have been heard.

4. Undisputedly, against the aforesaid impugned order, remedy of appeal has been provided under Section 86 of the Finance Act, 1994, before the Appellate Tribunal, and the said remedy has not been availed by the petitioner.

5. An objection has been raised by counsel for the respondents regarding not availing the alternative remedy by the petitioner. However, he submits that even if now, the petitioner avails the remedy of appeal, the department will not raise any objection of limitation or pre-deposit.

6. Counsel for the petitioner, on instructions from the petitioner, states that in view of the aforesaid fact, the petitioner may be permitted to withdraw this petition with liberty to file appeal within 30 days from today before the Tribunal.

7. Dismissed as withdrawn with the aforesaid liberty. In case, the petitioner files an appeal against the impugned order within 30 days from today, the same shall be entertained and decided on merits by the Tribunal within a period of three months, without insisting for the pre-deposit, as the amount of Rs. 12.00 lacs, so deposited by the petitioner, will be deemed to be sufficient amount as a condition for filing the appeal.