

Collector of Cus. and Ex. Vs. Premier Vinye Flooring Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Sep-07-1993

Reported in : (1999)(113)ELT247TriDel

Appellant : Collector of Cus. and Ex.

Respondent : Premier Vinye Flooring Ltd.

Judgement :

1. This is an application of condonation of delay in preferring present appeal.

(i) Because of the demolition of disputed structure at Ayodhya on 6-12-1992, there were communal riots in the country and as a result of that indefinite curfew was imposed in Meerut town.

(ii) That the Office of the Collector, Central Excise, Meerut is situated in a most sensitive area of the Meerut town. Therefore Collectorate office had to remain completely closed for a period of more than 20 days.

(iii) That thereafter partial relaxation of curfew was allowed for a good number of days till the normalcy was maintained. Therefore, for about a month the work of the office remained paralysed completely in the Collectorate office.

(iv) Similar position prevailed in Ghaziabad town also. The indefinite curfew was also imposed in certain parts of this town. As a result of that there was no communication between Meerut and Ghaziabad offices for a pretty long time.

(v) The authorisation letter filing an appeal against the aforesaid Order-in-Appeal in the CEGAT was received in this office on 22-1-1993 and thereafter 23-1-1993, 24-1-1993 and 26-1-1993 were the public holidays.

(vi) Owing to above unforeseen reasons, the appeal could not be filed within time.

2. To support the said grounds the applicants have also filed a Memo dated 6-1-1993 issued by the Addl. District Magistrate (City Meerut) certifying that Meerut was under curfew from 7-12-1992 till the mid-night of 3rd January, 1993. The details of Data Sheet for the period for 4-1-1993 to 28-1-1993 has also been filed along with the photocopy of the Attendance Roll of the Staff of the Meerut, Collector (Central Excise) for the month of January, 1993 to prove that the dealing clerks and other concerns were deputed for the purpose of preparing appeal and how the delay occurred.

3. Shri A.K. Singhal, the learned JDR appearing on behalf of the Respondent reiterated the said grounds and contended that since there were a curfew in the Meerut city on account of demolition of structure in Ayodhya, the entire city remained tense even after lifting of the curfew, and therefore, the delay be condoned.

4. In reply, Shri Rajesh Chibber, the learned Advocate submitted that there was no sufficient cause as after relaxation of the curfew the machinery should have been geared and the appeal should have been filed as the time was running out and cited the case reported in 1988 (38) E.L.T. 739 (S.C.).

5. We have considered the submissions. The impugned Order-in-Appeal was communicated to the Collector on 16-9-1992 and the appeal was received in the Registry of this Tribunal on 8-1-1993. Thus there was a delay of 41 days as the period of limitation prescribed for such appeal is three months from the date of communications.

6. The grounds put forth as above for condoning the delay are supported by the Certificate of Addl. District Magistrate, Meerut and the Date Sheet for the period for 4-1-1993 to 28-1-1993. Thus we are satisfied that there was sufficient cause for

delay. Needless to say that the judicial notice can also be taken of the fact that even after the lifting of the curfew, the effected part of the country which includes Meerut also remained tense for substantial period on account of the demolition of the structure.

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