Bharat Strips Ltd. Vs. C.E.G.A.T.

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Court : Chennai

Decided On : Apr-10-1995

Reported in : 1995(79)ELT3(Mad)

Judge : Kanakaraj, J.

Appeal No. : Writ Petition No. 5347 of 1995

Appellant : Bharat Strips Ltd.

Respondent : C.E.G.A.T.

Judgement :
ORDER

By an order, dated 30-11-1994, the Collector of Customs and Central Excise confirmed the demand for Rs. 9,45,356/- being the differential central excise duty, short paid, with reference to Notification No. 178/88. He also imposed a penalty of Rupees one lakh. As against the said order, the petitioner has preferred an appeal to the first respondent and also filed an application for waiver of pre-deposit. The first respondent has considered the matter and holds that, prime facie, the Notification will not apply to the petitioner, and therefore the imposition differential duty is justified. Thereafter they proceed to discuss the balance-sheet and the fact that BIER proceedings are being initiated as reflected in the Director's report to the share-holders. Taking all these things into consideration, the first respondent has said that it is enough if the petitioner pays a sum of Rupees three lakhs, and that too in monthly instalments of Rs. 50,000/-. The entire penalty has been waived. I am of the opinion that the order is a well-considered order, which has taken note of all the relevant circumstances. Learned counsel for the petitioner argues that clearance was being made in accordance with the classification list and the show cause notice came to be issued nearly three and half years later. In other words, it is not as if that the petitioner was removing goods clandestinely, and this aspect of the case has not been noticed by the first respondent. I am of the opinion that the Tribunal will take not of only those points which are argued, and in any event, the fact that the goods had been removed under a classification list will not prevent the 2nd respondent from issuing how-cause notice, imposing duty as per the statutory enactments. I am therefore not inclined to interfere with the order of the first respondent and accordingly this writ petition is dismissed.