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Gurusamy Vs. Customs, Excise and Gold (Control) Appellate Tribunal and ors.

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Court : Chennai

Decided On : Feb-23-1995

Reported in : 1995(50)ECC87

Judge : K.A. Swami, C.J. and ; Somasundaram, J.

Appeal No. : W.A. Nos. 704 and 705 of 1994 and C.M.P. Nos. 7449 and 7450 of 1994

Appellant : Gurusamy

Respondent : Customs, Excise and Gold (Control) Appellate Tribunal and ors.

Disposition : Appeal dismissed

Judgement :

K.A. Swami, C.J.

1. Before the CEGAT, the petitioner/appellant had agreed to deposit the amount. Accordingly, the Tribunal had passed the order on 7.5.1991, granting him time till 30.8.1991 for depositing the amount. Thereafter, he filed an application for modification of that order. The Tribunal, by order dated 22.12.1992, has rejected that application. Validity of both the orders was challenged before a learned Single Judge in W.P. Nos. 6710 and 6711 of 1993. Learned Single Judge has re-

examined the matter and held that there is no, case for interfering with the orders passed by the Tribunal. It may be pointed out that in the order dated 7.5.1991, the Tribunal has held that in similar cases it has held that the petitioners become manufacturers. The question as to whether the petitioner/appellant is manufacturer has to be decided in the appeal. We, accordingly, modify the order of the Tribunal insofar as it holds the petitioner/appellant as manufacturer and keep open that question to be decided in the appeal and dispose of these writ appeals, granting to the appellant time till the end of March, 1995 to deposit the amount. On this condition, the appeals are restored to the file of the CEGAT. In the event, the petitioner/ appellant deposits the amount, the appeals shall be heard and decided on merits and in accordance with law.

2. In view of the disposal of the appeals, no orders are necessary in the connected CMP. Accordingly, the same are rejected.

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