

Kamala Devi (Smt) and Others

Vs

Collector of Central Excise, Bangalore and Others

Civil Appeals Nos. 2641-2644 of 1998

(S. C. Agarwal, M. Srinivasan JJ)

08.05.1998

ORDER

1. Shri V. K. Verma, the learned counsel undertakes to file vakalatnama during the course of the day.
2. Special leave granted.
3. These appeals are directed against the order dated 7-1-1997, passed by the Division Bench of the Karnataka High Court dismissing Writ Appeals Nos. 442-45 of 1993 filed by the appellants against the judgment of the learned Single Judge dated 12-10-1993 in Writ Petitions Nos. 27244-47 of 1993 wherein the appellants had challenged various orders passed by the Customs, Excise & Gold (Control) Appellate Tribunal (hereinafter referred to as "the Tribunal") in the appeals filed by the appellants.
4. The Collector of Central Excise, Bangalore by order dated 3-7-1989, had imposed penalties to the tune of Rs. 10,00,000 on Manoj Kumar Shah (Appellant 3), Rs. 5,00,000 on Popat Shanthilal Jain (Appellant 4) and Rs. 50,000 each on Smt Kamala Devi Kapoor Chand Jain and Shanthilal Indaji Rathod (Appellants 1 and 2). Appeals were filed by the appellants against the said order of the Collector of Central Excise before the Tribunal. By order dated 6-4-1990, the Tribunal granted waiver of pre-deposit of penalty by appellants Manoj Kumar Shah (Appellant 3) and Popat Shanthilal Jain (Appellant 4), subject to their depositing Rs. 3,00,000 and Rs. 1,50,000 respectively on or before 27-6-1990. The other two appellants were required to deposit the entire amount of penalty imposed on them. Since they failed to deposit the amount within the time prescribed by the Tribunal, the appeals were dismissed. The writ petitions filed by the appellants were dismissed by the learned Single Judge and the writ appeals filed against the order of the learned Single Judge were dismissed by the Division Bench of the High Court.
5. The learned counsel for the appellants submits that due to certain financial difficulties, the appellants were not in a position to deposit the amount as per directions of the Tribunal and they would deposit the amount which the Court considers appropriate in the circumstances of the case within the time fixed by it and that the appeals of the appellants may be directed to be heard on merits. Having regard to the facts and circumstances of the case, we direct that Appellant 3, Manoj Kumar Shah shall deposit a sum of Rs. 6,00,000, Popat Shanthilal Jain (Appellant 4) shall deposit Rs. 3,00,000 and the other two appellants, Smt Kamala Devi Kapoor Chand Jain and Shanthilal Indaji Rathod shall deposit the entire amount of penalty of Rs. 50,000 each. The said amount should be deposited on or before 30-6-1998 after adjusting the amounts, if any, already deposited by them. In case the appellants deposit the amounts indicated above by 30-6-1998, their appeals shall stand allowed and the order passed by the Division Bench in WAs Nos. 442-445 of 1997 as well as the

order passed by the learned Single Judge in WPs Nos. 27244-47 of 1993 will be set aside and the said writ petitions filed by the appellants would stand disposed of with the direction that the Tribunal shall hear and dispose of the appeals filed by the appellants on merits. In the event of a default by the appellants in making the deposits of the amounts indicated above on or before 30-6-1998, the said orders shall remain undisturbed and the appeals will stand dismissed. No costs.