

M/s. Super Industries & Others

v.

Commissioner of Central Excise & Customs, Vadodara

(Supreme Court Of India)

HON'BLE MR. JUSTICE ANIL R. DAVE HON'BLE MR. JUSTICE DIPAK MISRA

Civil Appeal No. 8087-89 Of 2013 (Special Leave Petition (Civil) No. 27435-37 Of 2013) |
09-09-2013

1. Delay condoned.

2. Leave granted in each petition.

3. Being aggrieved by the Order dated 28th March, 2007 passed by the Commissioner of Central Excise, Customs and Service Tax, Vadodara-I, the appellants had preferred appeals before the CESTAT, Ahmedabad on 7th August, 2007. By way of pre-deposit the appellants were directed to deposit Rs. two crores within twelve weeks by an order dated 17th December, 2007. The appellants could not deposit the said amount and therefore, had made applications to the CESTAT, Ahmedabad for extension of time, which had been granted on 4th April, 2008, whereby the appellants were granted further time of four weeks to deposit the said amount.

4. The appellants could not deposit the said amount of Rs. two crores within the period extended by the CESTAT and therefore, had filed applications for modification of the order, whereby, the appellants were directed to deposit Rs. two crores within the next four weeks. The modification applications of the appellants had been rejected by the order dated 6th May, 2008.

5. Being aggrieved by the order dated 6th May, 2008 passed by the CESTAT, the appellants had filed Special Civil Application No.8549 of 2008 in the High Court of Gujarat which had been rejected on 10th July, 2008.

6. Being aggrieved by the order dated 10th July, 2008, the appellants had filed a special leave petition before this Court which had also been rejected on 20th September, 2008. While rejecting the petition, this Court had extended the period for depositing the said pre-deposit amount by four weeks.

7. During the above-referred period, on 28th July, 2008, the appeals filed by the appellants were notified for hearing before the CESTAT but as the appellants had not deposited the amount of pre-deposit, the appeals had been dismissed without going into the merits of the case on 28th July, 2008.

8. Thereafter, the appellants had filed restoration applications before the CESTAT for restoration of the appeals but the said applications had been rejected on 14th June, 2010.

9. Being aggrieved by the aforesaid orders as well as the orders whereby the appeals had been dismissed for default, the present appeals have been filed.

10. At the time when the appeals had been notified for hearing for the first time, the learned senior counsel appearing for the appellants had given details about the financial difficulties faced by the appellants. He had however added that the appellants were in a position to deposit some amount as they had made some arrangements and had collected some amount so that some amount could be paid. So as to verify the bona fides of the appellants, this Court had directed the appellants to deposit Rs. one crore with the Registry of this Court and the said amount has been deposited by the appellants within the time prescribed by this Court. Thus, a sum of Rs. one crore has already been deposited by the appellants with the Registry of this Court. The learned counsel for the appellants had submitted that the delay caused in depositing the notified amount be condoned in the interest of justice and the appellants be not asked to deposit any further amount as it was not possible for the appellants to deposit any further amount but in the interest of justice, the appeals filed by the appellants before the CESTAT be kindly restored.

11. On the other hand, the learned counsel appearing for the Revenue had submitted that the delay in depositing lesser amount should not be condoned and the appeals should be dismissed.

12. Looking at the facts of the case and specially in view of the fact that a sum of Rs. one crore has already been deposited by the appellants, in the interest of justice, we quash and set aside the order dated 28th July, 2008, whereby the appeals of the appellants had been dismissed for not depositing the amount of pre-deposit.

13. The amount of Rs. one crore deposited with the Registry of this Court shall be forwarded to Respondent No.1. As the impugned order dismissing the appeals has been quashed and set aside, the CESTAT shall restore the appeals to their original numbers and make an effort to decide the same preferably within six months from today as the appeals had already been notified for hearing but only on account of non-deposit of the amount of pre-deposit, the appeals had been dismissed for default.

14. The appeals stand disposed of as allowed with no order as to costs.