

Customs, Excise and Gold Tribunal - Tamil Nadu

Neycer India Ltd. vs Commissioner Of Central Excise on 17 August, 2004

Equivalent citations: 2004 (172) ELT 312 Tri Chennai

Bench: P Chacko, R K Jeet

ORDER P.G. Chacko, Member (J)

1. This application seeks extension of stay and early listing of the appeal. Ld. Counsel for the applicants has given an account of history of the judicial proceedings. The appeal filed by the assessee had been allowed by this Tribunal in 1998 vide Final Order Nos. 1882-1885/1998, dated 17-9-98, The Revenue filed an appeal with the Supreme Court against this order and the Hon'ble Supreme Court set aside our Final Order and remanded the case to us for fresh decision. Thus the appeal is again before us. Meanwhile, the department is allegedly coercing the appellants to pay the duty. A copy of the Central Excise Range Superintendent's letter dated 16-7-2004 requesting the appellants to pay the arrears has been filed with this application. This letter says that the appellants have to pay up the duty as the stay of recovery stands vacated by operation of the second proviso to Section 35C(2A) of the Central Excise Act. With reference to this, the appellants, in this application, rely on the Tribunal's Larger Bench's decision in IPCL v. CCE Vadodara, 2004 (169) E.L.T. 267 (T-LB) = 2004 (63) RLT 1 and submit that this Bench has powers to extend the stay of recovery. Ld. Counsel has urged that such stay of recovery be granted and the appeal be posted for early hearing.

2. We have heard the DR also, who has seen the Superintendent's demand notice dated 16-7-2004.

3. We have considered the appellant's plea. This plea appears to be based on a premise that our stay order has also been got revived with the revival of the appeal. This is not correct. However, the appellants' application for waiver of pre-deposit and stay of recovery is alive and the same has to be disposed of afresh. That application will be heard on 24-8-2004. Till disposal of that application, there will be stay of recovery for the ends of justice.