

Customs, Excise and Gold Tribunal - Calcutta

M/S. Precision Paper Indus. Ltd. vs Cce, Calcutta-Iv on 28 May, 2001

Equivalent citations: 2002 (147) ELT 485 Tri Kolkata

ORDER Smt. Archana Wadhwa, Member (T)

1. The prayer in the application is for dispensing with the condition of predeposit of duty amount of Rs.92,876/- (rupees ninty two thousand eight hundred and seventy six only) and penalty amount of Rs.2,000/- (rupees thousand only) confirmed by the authorities below on the findings of clandestine removal of bars and rods. The said finding is based upon the fact that there was difference in the entries in RG-1 register and the private registers being maintained by the appellant and some of the invoices showed clearance of goods without payment of duty. The appellants' explanation was that the goods which was duly entered in Rg-1 register were again sent for re-processing and the invoices in question were relatable to the earlier invoices under which the duties were paid. However, the appellants could not show beyond doubt that the goods which have been cleared earlier were re-processed and cleared second time without payment of duty. Similarly they could not explain as to how the goods which have entered in RG-1 register after passing the quality control test were again sent for re-processing without following any procedure. As such after hearing the ld.adv. and the ld.SDR I find that the appellants have not been able to make out a prima facie case in their favour so as to dispense with the condition of predeposit of the entire amount of duty and penalty.

2. The ld.adv. has taken a stand that the appellant is going through financial hardship and the factory is lying closed for the last four years. However, there is no proof or any evidence produced by the appellant to the above effect. No balance sheet is produced. Accordingly taking into account the overall facts and circumstances of the case I direct the applicant appellant to deposit an amount of Rs.25,000/- (rupees twenty five thousand only) within a period of eight weeks from today. Subject to deposit of above amount the balance amount of duty and penalty shall stand waived and its recovery stayed during the pendency of the appeal. Matter to come up for compliance on 6.8.2001. Subject to ascertaining compliance with the said date appeal itself would be taken up for disposal.

Dictated in the court.