

Supreme Court of India

M.P. State Board Transport ... vs Collector Of Central Excise, ... on 19 February, 1997

Equivalent citations: 1997 (91) ELT 530 SC, (1997) 10 SCC 367

Bench: S Bharucha, S Majmudar

ORDER S.P. Bharucha and S.B. Majmudar, JJ.

1. The appellants filed an appeal before the Customs, Excise and Gold (Control) Appellate Tribunal. For the purpose of that appeal they were required to make a pre-deposit in the sum of Rs. 65,65,020/-, being the duty demanded in the order that was under challenge. The appellants prayed for Waiver of the pre-deposit and stay of the recovery of the duty. They contended that they had a good prima facie case; also, that they were in a poor financial condition and had during the year 1988-89 made a loss of Rs. 134.57 crores. The Tribunal found that the appellants had no prima facie case, the controversy in the appeal being covered by the judgment of this Court 1991 (54) E.L.T. Reference is perhaps to 1991 (54) E.L.T. (A 92). It also found no merit in the plea of financial difficulties, the appellants being a public sector undertaking.

2. By reason of an interim order passed by this Court the appeal before the Tribunal remains undisposed of.

3. Mr. D. A. Dave, learned Counsel for the appellants, addressed us on the merits. We told him that it would, perhaps not be in the best interests of the appellants to invite us to express a prima facie opinion upon the merits of the appellants case before the Tribunal. Mr. Dave stated that he was conscious of the consequences thereof. Having heard Mr. Dave, we find that the case is, atleast in part, covered by the judgment of this Court aforementioned. We do not therefore, find that the appellants have a good prima facie case before the Tribunal.

4. The plea of financial loss was not ignored by the Tribunal, as submitted by Mr. Dave, because the Tribunal gave the appellants time to make the deposit. The sum of Rs. 65,65,020/- was to be deposited within a period of 6 months in three instalments. In the circumstances, that was not inappropriate.

5. We find no good reason to interfere with the order of the Tribunal, but we extend this indulgence to the appellants that they may now deposit the sum of Rs. 65,65,020/- in the Tribunal within 6 weeks from today. If they fail to do so, their appeal before the Tribunal shall stand dismissed without further reference either to this Court or to the Tribunal.

6. The appeal is, disposed of accordingly.

7. No order as to costs.