

CASE NO.:
Appeal (civil) 426 of 2003

PETITIONER:
M/s. Rattan Steel Works

RESPONDENT:
Commissioner of Central Excise & Anr

DATE OF JUDGMENT: 01/02/2008

BENCH:
ASHOK BHAN & DALVEER BHANDARI

JUDGMENT:
JUDGMENT

O R D E R
I.A.NO.2 IN CIVIL APPEAL NO.426 OF 2003

Pursuant to a show cause notice dated 11th August 1998 to the appellant and the reply having been filed by it, the Commissioner of Central Excise, Chennai, imposed a duty of Rs.23,51,646/- and a penalty of Rs.5,00,000/- on the appellant-firm and Rs.1,00,000/- on its proprietor as individual penalty.

On an appeal filed by the appellant, Customs, Excise & Gold (Control) Appellate Tribunal (now Customs, Excise & Service Tax Appellate Tribunal) [CESTAT], by an order dated 17th July 2000, ordered payment of Rs.10,00,000/- as pre-deposit as a condition precedent for hearing the appeal on merits within a period of three months. It was made clear that if the said amount is not deposited, the appeal filed before it shall stand dismissed. The appellant deposited only a sum of Rs.1,00,000/-. The CESTAT, however, on 19th January 2001, extended the time to deposit the amount by two months. On 28th March 2001, the CESTAT dismissed the appeal for non-compliance of the order of pre-deposit.

I.A.No.2 in C.A.No.426/03 (contd.)
- 2 -

Aggrieved by the said order, the appellant filed a writ petition before the High Court which was also dismissed by a learned Single Judge of the High Court on 20th September 2001. However, a period of twelve weeks was granted to deposit the remaining amount of Rs.9,00,000/-.

The appellant filed an appeal before a Division Bench of the High Court. The Division Bench, by the impugned order, dismissed the appeal, but, granted two weeks' time to deposit the amount of pre-deposit. Against the said order, the appellant filed an appeal before this Court by way of Special Leave Petition wherein leave has been granted and the appeal is pending.

The appellant has now moved the present application for permitting the appellant to deposit the remaining amount of pre-deposit, as ordered by the CESTAT so that the appeal before the CESTAT is restored and heard.

Counsel for the appellant-applicant submits that the remaining amount of pre-deposit will be deposited within three weeks. In view of this statement, we accept this appeal and set aside the orders of the Division Bench of the High Court, learned Single Judge of the High Court as also that of the CESTAT and order that if the aforementioned remaining amount of Rs.9,00,000/- is deposited within the said period, the appeal before the CESTAT shall stand restored and disposed of on

I.A.No.2 in C.A.No.426/03 (contd.)
- 3 -

merits. However, in case the appellant-applicant fails to deposit the said amount, the

order passed by the CESTAT dismissing the appeal of the appellant shall remain in force and consequently the present appeal shall also stand dismissed.

In view of the above, I.A.No.2 as also the civil appeal are disposed of.

JUDIS