

GRAM : CEGCANAL

REGISTERED/A.D

THE CUSTOMS, EXCISE & GOLD (CONTROL) APPELLATE TRIBUNAL,

West Block No. 2, R.K. Puram, New Delhi - 110066.

Appeal No. E/S/1826/2000-NB(SM) BENCH NB(SM)
E/3250/00-NB(SM)

Dated : 5-1-2001.

CEGAT
NEW DELHI
To,

M/s Grasim Industries Ltd.
Engg. & Development Division,
Birlagaram, Nagda. (M.P)

In the matter of :

M/s Grasim Inds. Ltd. Appellant
vs.
CCE Indore Respondent

stay order No. S/10/2001/NB(SM)

I am directed to transmit herewith a certified copy of Final Order No. A/30/2001/NB(SM)
Dated : 3-1-2001 passed by the Tribunal under Section 35-C(1) of Central Excise & Salt Act, 1944/Section 129 (B) of the Customs, Act, 1962.

Copy to :

Asstt. Registrar
NB(SM)

1. CCE Indore
2. CCE/CE/ (Appeal) Bhopal
3. Chief Commissioner of Central Excise / Customs. Jaipur
4. Adv. / Consult. Shri Rahul Rai, Adv.,
E-65, Himalaya House
4th Floor, 23 K.G. Marg,
New Delhi.
5. S.D.R
6. JCDR
7. Bar Association, CEGAT, New Delhi
8. Library, CEGAT, New Delhi
9. Director (Review), C.B.E.C. North Block, New Delhi
10. Guard File.
11. M/s Deeparchic Publications, M-93, Marg-46, Saket, New Delhi.
12. M/s Centax Publications (P) Ltd., 1512-E, Bhishm Pitamah Marg, opp. Sachdeva P.T. College of Defence Colony, New Delhi-110003
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Asstt. Registrar

CUSTOMS, EXCISE AND GOLD (CONTROL) APPELLATE TRIBUNAL
NEW DELHI

E/S/1826/2000-NB(SM) in A.No.E/3250/2000/NB(S)

M/s. Grasim Industries Limited Applicant
(Shri Rahul Rai, Advocate)

Vs.

Commissioner of Central Excise, Indore Respondent
(Shri K. Panchant Chandar, JDR)

FINAL ORDER NO. A/30/2001/NBCE(M) Dt. 3.1.2001.
STP X ORDER NO S/ 10 / 2001 / NB CE (M)
Per: S.S. KANG, MEMBER

Applicants filed this application for waiver of pre-deposit of duty amounting to Rs.53,381.02 and penalty of Rs.5,000/-.

2. Heard both sides.

3. The contention of the applicants is that they had filed an appeal against the adjudication order before the Commissioner (Appeals) without affording an opportunity of personal hearing to them, the Commissioner (Appeal) decided their application for waiver of pre-deposit and directed them to deposit the duty amount. Thereafter, appellant filed an application for modification of the Stay order^{and} without deciding the modification application the appeal filed by them was dismissed for non-compliance under the provisions of Section 35F of the Central Excise Act, ^{while} the impugned order is passed in violation to the principles of natural justice. Applicants also relied upon the decision of the Tribunal in the case of Bell Ceramics Ltd. Vs. Commissioner of Central Excise & Cus. Vadodara, reported in 2000 (122) E.L.T. 396 (Tribunal) where in the similar situation the impugned order is set aside and the

matter was remanded. In these circumstances the pre-deposit of whole of the duty is waived for hearing of the appeal. With the consent of both the parties the appeal is taken up for disposal. As discussed above, ^{and in view of the decision of the Tribunal} the impugned order is passed in violation of the principles of natural justice, hence set aside and the matter is remanded to the Commissioner (Appeals) to decide the application for waiver of pre-deposit afresh after affording an opportunity of personal hearing and, thereafter, to proceed in accordance with law.

(S.S. KANG)
MEMBER (JUDICIAL)

Dated : 3.1.2001.

/RANA/