

GRAM : CEGCANAL

REGISTERED/A.D

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

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

BENCH NB(SM)

Appeal No. E/S/1700/00/NB(S) &
E/3070/00/NB(SM)

Dated : 12/2/2001.

CEGAT
NEW DELHI
To,

Ashok Agencies,
factory: Kasudia Mori, Dewas Naka,
Dist- 2 A, Scheme No 71
Ring Road, Chandan Nagar
Indore

In the matter of :

M/s Ashok Agencies

Appellant

vs.

CCE Bhopal

Respondent

I am directed to transmit herewith a certified copy of Final Order No. A/225/01/WB(DRS/91/01
ans(SM) Dated : 2/2/2001.....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 Bhopal
2. CCE / CC / (Appeal)
3. Chief Commissioner of Central Excise / Customs.
4. Adv. / Consult.
5. S.D.R NB(SM)
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
13. M/s Lex Site Com. Ltd., Mumbai
14. Office Copy
15. Con-ens

Asstt. Registrar NB(SM)

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

E/Stay/1700/2000-NB(SM) & Appeal No.E/3070/2000-NB(SM)

[Arising out of Order-on-appeal No.771-CE/BPL/2000 dated 7.7.2000 passed by the Commissioner (Appeals), Customs & Central Excise, Bhopal].

M/s. Ashok Agencies

Applicants/Appellants
(None)

Vs.

Commissioner of Central Excise, Bhopal

Respondent

(Shri Swatanter Kumar, JDR)

STAY ORDER NO S/91/01/NB CS/m)

FINAL ORDER NO. A/225/01/NB CS/m/
Dt. 6.2.2001.

Per. S.S. KANG, MEMBER

When the case was called none appeared on behalf of the appellants inspite of notice. Therefore, the appeal is being taken up for hearing in the absence of the applicants. The applicants filed this application for waiver of pre-deposit of duty and penalty.

2. Heard learned JDR and perused the appeal papers.
3. The contention of the applicants in the appeal memorandum is that the Commissioner (Appeals) directed the applicants to deposit the sum due without affording an opportunity of personal hearing to the appellants and, thereafter, the appeal was dismissed for non-compliance to the Stay order. They relied upon the decision of the Hon'ble Madhya Pradesh High Court in the case of Neo Seek Ltd. Vs. Commissioner of Central Excise, Bhopal, reported in 2000(119) E.L.T. 522 (M.P.).

4. Appellant filed appeal before the Commissioner (Appeals) against the adjudication order alongwith the application for waiver of pre-deposit. The Commissioner (Appeals) without affording an opportunity of personal hearing to the appellants decided the application for waiver of pre-deposit and directed the applicants to deposit the amount and, thereafter, the appeal was dismissed without any notice. In these circumstances, prima facie, balance of convenience is in the favour of appellants. Therefore, the deposit of duty and penalty is waived for hearing of the appeal and the appeal is being taken up for regular hearing.

5. In view of the decision of the Madhya Pradesh High Court in the case of Neo Seek Ltd. Vs. Commissioner of Central Excise (Appeals), Bhopal (Supra), 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) for deciding the application ^{for waiver of pre-deposit} afresh after affording an opportunity of personal hearing to the applicants and, thereafter, to proceed in accordance with law. The appeal is disposed of by way of remand.

(S.S. KANG)
MEMBER (JUDICIAL)

Dated : 6.2.2001.

/RANA/