

GRAM : CEGCANAL

REGISTERED/A.D

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

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

BENCH - N B (SM)

Appeal No. E/S/1693/00/NB(S) &

Dated : 15/2/2001

A/AD E/3058/00/NR(S)

CEGAT

NEW DELHI

To,

M/s Ramdarshan Rolling Mills

Tejpur Gadbadi

AB Road, Indore (M.P)

In the matter of :

M/s Ram Darshan Rolling Mills Appellant

vs.

CCE Indore

Respondent

I am directed to transmit herewith a certified copy of Final Order No. A/2590/01/NB(S) 5/102  
Dated : 6/2/2001 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

1. CCE Indore.

NB(SM)

2. CCE / CEI (Appeal) Bhopal

3. Chief Commissioner of Central Excise / Customs.

4. Adv. / Gensult. I C Upadhyay & CO, D.V  
30/1, Chhipa Bakhel  
Indore.

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 - Cen - lvs.

Asstt. Registrar

NB(SM)

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

I.E/Stay/1693/2000-NB(S) & A.No.E/3058/2000-NB(SM)

[Arising out of order-in-appeal No.885/CE/Ind/App1/Bpl/2000 dated 02.8.2000 passed by the Commissioner (Appeals) Central Excise, Bhopal.]

M/s. Ram Darshan Rolling Mills

Applicants  
( None )

Vs.

Commissioner of Central Excise & Customs, Indore Respondent  
(Shri Swatanter Kumar, JDR)

Per. S.S. KANG, MEMBER

FINAL ORDER NO. A/259/01/NB(CE/M) Dt.6.2.2001.

~~STAY ORDER~~ NO S/103/01/NB(CE/M)

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 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/