

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. C/M/40-41/01/NR(S) in

Dated : 28/2/2001

CEGAT

NEW DELHI

To,

1 Shri Jasvinder Singh
S/O Sh. Balwant Singh
R/o A1/484, Sector 6, Rohini
New Delhi

2 Sh. Balvinder Singh S/o Sh. Chanan Singh
R/o Vill. Lalla Chama, PO Chabal
Tal. Tara Tassar, Dist. Amritsar (Punjab)

In the matter of :

Shri Balvinder Singh & Shri Jasvinder Singh Appellant

vs.

CCE New Delhi

Respondent

I am directed to transmit herewith a certified copy of Final Order No. 328-29/01/NR/SN
Dated : 19/2/2001 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. CC New Delhi
2. CCE / CC / (Appeal) New Delhi
3. Chief Commissioner of Central Excise / Customs. New Delhi
4. Adv. / Consultant Sangeeta Rhyane, Adv.
CNS 524, Patiala Home Court
New Delhi - 1
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, Bhisim 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. Cer. em.

Asstt. Registrar NB(SM)

CUSTOMS, EXCISE & GOLD (CONTROL) APPELLATE TRIBUNAL

NEW DELHI

C/Misc./40-41/2001-NB(S) in and
C/S/1359-1360/2000-NB(S) in A.No.C/286-287/2000-NB(S)

[Arising out of order in original No.26/A&RV2/2000 dated
28.4.2000 passed by the Commissioner of Customs (General),
New Custom House, New Delhi]

Shri Balvinder Singh
Shri Jasvinder Singh

Appellants
(Rep.by:None)

vs.

CCE New Delhi

Respondent
(Rep.by:Shri A.K.Jain,SDR)

Coram: Shri P.S. Bajaj, Member Judicial
MISC ORDER No. M/59-60 / 01 / NB (C/m)
FINAL ORDER No. 228-29/2001-NB(S) Dated: 19.12.2001

PER P.S. BAJAJ

None has come present on behalf of the appellants. The perusal of the file shows that vide order dated 9.10.00 both the appellants were directed to make pre-deposit of Rs.2 lakhs each within a period of eight weeks from the date of the order for entertainment of their appeal for hearing on merits. But they did not make compliance with this order of the Tribunal, rather their counsel sought extension for two months for making the pre-deposit of the amount and the same was allowed vide order dated 14.12.2000. The compliance was ordered to be reported for today. Today none has come present on behalf of the appellants and no proof of compliance of the stay order of the Tribunal dated 9.10.2000 had been also intimated by them personally or by their counsel.

2. The file further reveals that on 5.2.2001 the appellants moved an application for modification of the

stay order dated 9.10.2000 and subsequent order extending the period of deposit, dated 14.12.2000, on the ground that the appellants due to financial hardship, will not be able to make pre-deposit of Rs.2 lakhs each and in the alternative sought again extension of three months, but none has come present on their behalf to prosecute the present application. Even otherwise, I do not find any sufficient ground to allow the prayer of the appellants for modification of the above said two orders or to allow any further time to them. The financial hardship of the appellants was considered by the Bench while passing the stay order dated 9.2.2000 and directing them to make pre-deposit of Rs.2 lakhs each out of the total penalty amount of Rs.5 lakhs each imposed on them under Section 112(b) of the Customs Act by the authorities below on account of recovery of gold of foreign origin valued at Rs.4504491/- from them. Therefore, now again this very plea of financial hardship put forth by the appellants for seeking modification of the above said stay order of the Tribunal, cannot be entertained and considered. No further extension of time also deserves to be allowed to them, when already they had availed the extension and the perusal of the order dated 14.12.2000 shows that their counsel sought extension of two months and the same was allowed. This application for modification of stay order or in the alternative for extension of time, is dismissed. Therefore, for having failed to comply with the stay order of the Tribunal dated 9.10.2000 even within the extended time, both the appeals of the appellants are ordered to be dismissed under Section 129 of the Customs Act, 1962.

Dictated and pronounced in the open Court.

(P.S. BAJAJ)
MEMBER JUDICIAL

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19.2.2001