

GRAM : CEGCANAL

REGISTERED/A.D

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

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

E/S/1830/2000-NB (SM) BENCH NB (SM)
Appeal No. E/3255/2000-NB (SM)

Dated: 21/3/2001

CEGAT
NEW DELHI

To,

M/s Pithampur Poly Products Ltd.,
Plot No. 115, Sector-III,
Indl. Area, Pithampur (M.P)

In the matter of :

M/s Pithampur Poly Products Ltd. Appellant
vs.
CCE Indore Respondent

stay order No. S/143/2001-NB (SM)

I am directed to transmit herewith a certified copy of Final Order No. A/383/2001-NB (SM)
Dated: 5-3-2001 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 :

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Asstt. Registrar
NB (SM)

1. CCE Indore
2. CCE/CE/(Appeal) Bhopal
3. Chief Commissioner of Central Excise / Customs. Jaipur
4. Adv. / Consult. Shri. A. Upadhyay, Adv.
30/J, Chhipa Bakhhal, Indore (M.P)
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
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CUSTOMS, EXCISE AND GOLD (CONTROL) APPELLATE TRIBUNAL

NEW DELHI

E/Stay/1830/2000/NB(SM) in A.No.E/3255/2000-NB(SM)

[Arising out of Order-in-Appeal No.884/CE/AppI/BPL/2000 dated 2.8.2000 passed by the Commissioner (Appeals) Central Excise, Bhopal.]

M/s. Pithampur Poly Products Ltd.

Applicants
(Shri Ashutosh Upadhyay,
Advocate)

Vs.

Commissioner of Central Excise, Indore

Respondent
(Shri K. Panchat Charam, J.D.R.)

ORIGINAL ORDER NO. 8/383/01/NB(CO/M)
Dt. 5.3.2001.
STAY ON ORDER NO. 5/143/01/NB(CO/M)

Per. S.S. KANG, MEMBER

Heard both sides.

2. Appellants filed this appeal against the order in appeal passed by the Commissioner (Appeals) alongwith the application for waiver of pre-deposit of duty.

2. The contention of the appellant is that they had filed appeal against the adjudication order alongwith application for waiver of pre-deposit of duty and Commissioner (Appeals) without affording an opportunity for personal hearing directed the appellant to deposit the duty. Thereafter, the appellants filed an application for modification of the Stay order and asked for personal hearing and the Commissioner without deciding their application for modification of the Stay order dismissed

their appeals for non-compliance to the provisions of Section 35F of the Central Excise Act. As no opportunities of hearing were granted before deciding the application for stay and before dismissing the appeal, the impugned order is passed against in-violation to the principles of natural justice. Therefore, the pre-deposit of duty is waived and with the consent of both sides, appeal is being taken up for final disposal. As discussed above, the impugned order is passed in-violation of principles of natural justice, hence set aside and the matter is remanded to the Commissioner (Appeals) for deciding their application for waiver of pre-deposit afresh after affording an opportunity of personal hearing and, thereafter, to proceed in accordance with law. The appeal is disposed of by way of remand.

(S.S. KANG)
MEMBER (JUDICIAL)

Dated : 5.3.2001.

/RANA/