(2010) 12 CAL CK 0115

In the Calcutta High Court

Case No : G.A. No. 1996 of 2005 and CEXA No. 14 of 2005

Commissioner of C. Ex. APPELLANT

Vs

Brightman Industries RESPONDENT

Date of Decision : 06-12-2010

Acts Referred:

Central Excises and Salt Act, 1944 — Section 35H(1)

Citation : (2011) 264 ELT 192

Hon'ble Judges : Sengupta, J;Kanchan Chakraborty, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. The Court: This is an application for condonation of delay of 855 days in filing the instant reference application u/s 35H(1) of the Central Excise Act, 1944. In the petition the delay is sought to be explained in paragraph 6. It appears that principally the reason for delay in this matter is sought to be attributed to the departmental officers and the learned lawyers who were said to have been engaged for preparation of the drafting and settling of the application. In the body of the petition there is a reference of writing letter to the learned lawyer and also the department concerned. This statement and averment has been verified as true to information derived from the records. Unfortunately not a scrap of document annexed to support the statements giving instructions and informing the learned lawyers. In absence of document it is difficult for this Court to accept the explanation for such a long delay. Moreover, we were informed that amount of tax effect involved in this matter is only Rs. 15,000/-.

2. Under these circumstances we dismiss the application and consequently the appeal also stands dismissed.

3. All parties shall act on a xerox signed copy of this order on usual undertakings.

