(2016) 04 AP CK 0072

In the Andhra Pradesh High Court

Case No : Writ Petition No. 11614 of 2003 and WPSR No. 64412 of 2003

Impact Metals Ltd. APPELLANT

Vs

Commissioner of Customs RESPONDENT

Date of Decision : 04-04-2016

Acts Referred:

Citation : (2017) 345 ELT 637

Hon'ble Judges : Ramesh Ranganathan and M. Satyanarayana Murthy, JJ.

Bench : Division Bench

Advocate : Shri Mohan Vinod & Associates, for the Petitioner

Final Decision : Dismissed

Judgement

Ramesh Ranganathan, J.—The order under challenge in this writ petition is the proceedings dated 11-6-2003 issued by the Assistant Commissioner of Customs & Central Excise, Hyderabad, wherein it is stated that, for the financial year 2002-03, duty was not paid by the due date on three occasions as per Rule 8(3) of the Central Excise Rules, 2002 ("the Rules" for brevity); since the assessee has defaulted in payment of duty even after a lapse of thirty days, from the date on which the payment was due, they had rendered themselves liable for forfeiture of facility to pay the duty on a monthly basis under Rule 8(4) of the Rules for a period of two months, starting from the date of the order or till such date on which all the dues were paid, whichever was later; and, during this period, the petitioners were required to pay Central Excise duty in their current account for each consignment under Rule 8(4) of the Rules.

2. The petitioner''s grievance in this writ petition is that they have been prevented from making monthly payment of duty, for non-payment of duty within time. As is evident from the table, referred to in the impugned order, the petitioner had failed to pay duty on time on three different dates; and had paid duty belatedly. The number of days of delay in payment of duty is also recorded in the impugned order, and the total interest, for belated payment of duty is said

to be around Rs. 10,500/-.

3. As has been noted in the order itself, the petitioner had rendered themselves liable to forfeiture of the facility, to pay duty on a monthly basis, only for a period of two months or till such date on which the dues were paid whichever is later, as they had failed to pay Central Excise duty on time.

4. We see no reason to interfere with the order, under challenge in this writ petition, as it has not been disputed before us that payment of duty was belated; and all that the respondents have done is to deny the petitioner the facility, of payment of duty on a monthly basis, only for a period of two months. The impugned order does not suffer from any illegality necessitating interference in proceedings under Article 226 of the Constitution of India.

5. The writ petition fails and is, accordingly, dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand dismissed.