(2015) 07 JH CK 0040

In the Jharkhand High Court

Case No : T.A. No. 29 of 2012 and I.A. No. 3101 of 2012

Jaswant Singh APPELLANT

Vs

Commissioner of C. Ex. & S.T. RESPONDENT

Date of Decision : 28-07-2015

Acts Referred:

Citation : (2015) 326 ELT 109

Hon'ble Judges : Dhirubhai Naranbhai Patel and Ratnaker Bhengra, JJ.

Bench : Division Bench

Advocate : Biren Poddar, N.K. Pasari and Ranjana Mukherjee, for the Appellant; Ratnesh Kumar, for the Respondent

Judgement

Dhirubhai Naranbhai Patel, J.—This appeal has bee preferred by appellant Jaswant Singh, who is one of the Directors in M/s. Amba Re-Rolling Mill Pvt. Ltd., Jamshedpur, upon whom penalty has been imposed by Commissioner of Central Excise and Service Tax, Jamshedpur while passing an order dated 3rd July, 2012 in Excise Appeal No. 583 of 2010 arising out of Order-in-Original No. 27/ Commissioner/10, dated 30-3-2010 passed by the Commissioner of Central Excise & Service Tax, Jamshedpur, along with the stay application and this appellant was directed to deposit 10% of the penalty, but as the said amount has not been deposited, his appeal has also been dismissed. Having heard to the learned counsels for both sides and looking to the facts and circumstances of the case, it appears that the factory premises of M/s. Amba Re-rolling Mill Pvt. Ltd. has already been closed down since 2009. The balance sheet of the company reveals that there is a loss of Rs. 4,20,789/- during the assessment year 2011-12. CESTAT, Kolkata has also pointed out this fact at per paragraph 15 of the order dated 3rd of July, , 2012 [2012 (284) E.L.T. 437 (Tri. - Kol.)] , which is under challenge. Nonetheless, the Tribunal has pointed out that current asset of this company is approximately Rs. 3.00 Crores as on 31st March, 2011, and, therefore, 10% penalty has been ordered to be deposited by this appellant.

2. As the penalty imposed personally upon this appellant of 10% is absolutely

reasonable amount to be deposited by this appellant, counsel for the appellant is ready to deposit Rs. 10.00 lakh within four weeks on the condition that the appeal preferred by this appellant before the CESTAT, Kolkata bearing Excise Appeal No. 583/2010 is revived and the same will be decided on its own merits.

3. Hence, the appellant is allowed to deposit Rs. 10.00 lakhs before the CESTAT, Kolkata, within a period of four weeks from today. If the deposit of Rs. 10.00 lakhs is made within the aforesaid period, the appeal being Excise Appeal No. 583/2010 will be revived and will be heard on its own merits by CESTAT, Kolkata.

4. This appeal is allowed and disposed of accordingly. I.A. No. 3101 of 2012 also stands disposed of in view of the final order passed in the main appeal.

