(1998) 05 SC CK 0060

In the Supreme Court Of India

Case No : Civil Appeals Nos. 2641-2644 Of 1998

Kamala Devi (Smt) and Others	APPELLANT
Vs	
Collector of Central Excise, Bangalore and Others	RESPONDENT

Date of Decision : 08-05-1998

Acts Referred:

Citation : (1998) 102 ELT 514 : (1999) 1 SCC 231

Hon'ble Judges : S. C. Agrawal, J;M. Srinivasan, J

Bench : Division Bench

Final Decision : Allowed

Judgement

S.C. Agrawal and M. Srinivasan, JJ.—Shri V.K. Verma, the learned Counsel undertakes to file vakalatnama during the course of the day.

2. Special leave granted.

3. These appeals are directed against the order dated January 7, 1997, passed by the Division Bench of the Karnataka High Court dismissing Writ Appeals Nos. 442-45/93 filed by the appellants against the judgment of the learned Single Judge dated October 12, 1993 in Writ Petitions Nos. 27244-47/93 wherein the appellants had challenged various orders passed by the Customs, Excise & Gold (Control) Appellate Tribunal [hereinafter referred to as 'the Tribunal'] in the appeals filed by the appellants.

4. The Collector of Central Excise, Bangalore by order dated July 3, 1989, had imposed penalties in the tune of Rs. 10,00,000/- on Manoj Kumar Shah (Appellant No. 3), Rs. 5,00,000/- on Popat Shanthilal Jain (Appellant No. 4) and Rs. 50,000/- each on Smt. Kamala Devi Kapoor Chand Jain and Shanthilal Indaji Rathod (Appellants Nos. 1 and 2). Appeals were filed by the appellants against the said order of the Collector of Central Excise before the Tribunal. By order dated April 6, 1990 the Tribunal granted waiver of pre-deposit of penalty by appellants, Manoj Kumar Shah (Appellant No. 3) and Popat Shanthilal Jain (Appellant No. 4) subject to their depositing Rs. 3,00,000/- and Rs. 1,50,000/-

respectively on or before June 27, 1990. The other two appellants were required to deposit the entire amount of penalty imposed on them. Since they failed to deposit the amount within time prescribed by the Tribunal the appeals were dismissed. The writ petitions filed by the appellants were dismissed by the learned Single Judge and the writ appeals filed against the order of the learned Single Judge were dismissed by the Division Bench of the High Court.

5. The learned Counsel for the appellants submits that due to certain financial difficulties, the appellants were not in a position to deposit the amount as per directions of the Tribunal and they would deposit the amount which the Court considers appropriate in the circumstances of the case within the time fixed by it and that the appeals of the appellants may be directed to be heard on merits. Having regard to the facts and circumstances of the case we direct that Appellant No. 3 - Manoj Kumar Shah shall deposit a sum of Rs. 6,00,000/-, Popat Shanthilal Jain (Appellant No. 4) shall deposit Rs. 3,00,000/- and other two appellants Smt. Kamala Devi Kapoor Chand Jain and Shanthilal Indaji Rathod shall deposit the entire amount of penalty of Rs. 50,000/- each. The said amount should be deposited on or before June 30, 1998 after adjusting the amounts, if any, already deposited by them. In case the appellants deposit the amounts indicated above by June 30, 1998, their appeals shall stand allowed and the order passed by the Division Bench in W.A. Nos. 442-445/97 as well as the order passed by the learned Single Judge in W.P. Nos. 27244-47/93 will be set aside and the said writ petitions filed by the appellants would stand disposed of with the direction that the Tribunal shall hear and dispose of the appeals filed by the appellants on merits. In the event of a default by the appellants in making the deposits of the amounts indicated above on or before June 30, 1998 the said orders shall remain undisturbed and the appeals will stand dismissed. No. costs.