(2003) 04 SC CK 0025

In the Supreme Court Of India

Case No : Civil Appeal 2547 of 1997

Metal Box India Ltd. APPELLANT

Vs

Commissioner of Central Excise, Mumbai RESPONDENT

Date of Decision : 03-04-2003

Acts Referred:
Sick Industrial Companies (Special Provisions) Act, 1985 — Section 22

Citation : (2004) 121 CompCas 266 : (2003) 110 ECR 267 : (2003) 155 ELT 13 : (2003) 11 SCC 197

Hon'ble Judges : S. S. M. Quadri, J;Ashok Bhan, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. This appeal is filed against the Order No. 152/97-WZB passed by the Customs, Excise and Gold (Control) Appellate Tribunal, West Regional Bench at Mumbai (for short 'the Tribunal'), in Appeal No. E/789-RV/95-Bom., dated December 23, 1996.

2. The Tribunal dismissed the appeal on the ground that the amount which was required to be deposited u/s 35F of the Central Excise Tax Act, 1944 was not deposited within the period allowed by the Tribunal.

3. Mr. Rana Mukherjee, the learned Counsel for the appellants, submits that in view of Section 22 of the Sick Industrial Companies (Special Provisions) Act, 1985 (for short 'the Sick Industries Act'), the appellant need not deposit the amount, as ordered by the Tribunal, as protection is available to the appellant under the said provision. We are afraid, we cannot accept the contention of the learned Counsel for reasons more than one. First, this aspect was not the subject matter of the order under challenge and, secondly, Section 22 of the Sick Industries Act, provides relief in regard to the proceedings which relate to (a) winding up of the industrial company; (b) execution, distress or the like against any of the properties of the industrial company, (c) the appointment of a receiver in respect thereof, and (d) proceeding in regard to suit for recovery of money or

for the enforcement of any security against the industrial company or of any guarantee in respect of any loans or advance granted to the industrial company. Payment of pre-deposit covered u/s 35F of the Central Excise Tax Act, 1944 does not fall under any of the above-mentioned categories in Section 22 of the Sick Industries Act.

4. We find no merit in the appeal. It is, accordingly, dismissed but, in the circumstances of the case, without any order as to costs.