

(2008) 12 GUJ CK 0016
In the Gujarat High Court

Case No : Special Civil Application No. 13984 of 2008

Micro Polyester Pvt. Ltd.

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

Date of Decision : 03-12-2008

Acts Referred:

Citation : (2010) 255 ELT 61

Hon'ble Judges : R.M. Doshit, J;K.M. Thaker, J

Bench : Division Bench

Advocate : Paresh M. Dave, for the Appellant; Harin P. Raval, ASGI, for the Respondent

Final Decision : Dismissed

Judgement

R.M. Doshit, J.—The petitioner, a sick industrial undertaking, has challenged the Order dated 8 August, 2008 2009 (238) E.L.T. 112 (Tri. - Ahmd)] made by the Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench, Ahmedabad [hereinafter referred to as, "the Tribunal"] on Application Nos. E/S/64, 65, 141, 161, 165, 166, 167, 168, 175/08. By impugned order, the Tribunal has entertained the appeals preferred by the petitioner on condition that the petitioner deposits 25% of the duty involved and 10% of the penalty imposed within eight weeks from the date of the order.

2. Mr. Dave has appeared for the petitioner. He has candidly admitted that as yet the petitioner has not deposited the amount as directed. He has submitted that the petitioner is a sick industrial undertaking. A rehabilitation scheme by the Board for Industrial & Financial Reconstruction is under contemplation. Pending such scheme, the petitioner should not have been asked to deposit any amount as a condition precedent for entertaining the appeals preferred by the petitioner.

3. We do agree that the fact that the petitioner is a sick industrial company is a relevant factor for consideration. However, if the Tribunal has ordered deposit of mere 25% of the custom duty involved and 10% of the penalty imposed, no case

for interference is made out. The petition is dismissed in limine.

4. At the request of the learned advocate Mr. Dave, we do observe that the petitioner may, on the next date of hearing before the Tribunal, request the Tribunal to extend time for deposit ordered to be made.