

(2023) 03 CESTAT CK 0015

In the Customs, Excise And Service Tax Appellate Tribunal

Case No : Excise Appeal Nos.385, 386 Of 2012

M/S. Virajaa Steel & Power Limited Shri Digambar Nandi,
Managing Director

APPELLANT

Vs

Commissioner Of Central Excise & Service Tax, Bhubaneswar-
I

RESPONDENT

Date of Decision : 01-03-2023

Acts Referred:

Citation : (2023) 03 CESTAT CK 0015

Hon'ble Judges : P.K.Choudhary, Member (J);Rajeev Tandon, Member (T)

Bench : Division Bench

Advocate : Alok Mohapatra, S.Mukhopadhyaya

Judgement

1. Heard both sides. We find that the Appellants have not complied with the Stay Order No. S-1334-1335/KOL/2012 dated 30.10.2012 of this Bench. In the meantime the Appellants had moved before the Hon'ble High Court of Orissa and the Hon'ble High Court vide an interim Order dated 08.02.2013 ordered as under:-

"As an interim measure, it is directed that the CESTAT, East Regional Bench, Kolkata shall not dismiss the appeal filed by the petitioner for non-payment of pre-deposit, if the appeal has not been dismissed in the meantime and no coercive action shall be taken against the petitioner till the next date. This order shall remain in force if the appeal in the meantime is not dismissed.

Urgent certified copy of this order be granted on proper application."

2. Subsequently, they have again moved the Hon'ble High Court and the Hon'ble High Court vide Order dated 03.08.2022 observed as under:-

"1. Learned counsel for the Petitioners states that they willing to comply with the condition imposed by the Appellate Tribunal for entertaining the appeal. In that view of the matter, no further directions are called for in the present petition. The

Appellate Tribunal is requested to dispose of the appeal as expeditiously as possible preferably within a period of six months from today. The interim order dated 8th February, 2013 passed in M.C. Case No.21775 of 2012 is hereby vacated.

2. The name of M/s. Pami Rath, Advocate be deleted from the cause list.

3. The writ petition is disposed of.”

3. The Appellants have now filed a written submission today before the Bench mentioning that the Appellant company is undergoing acute financial crisis and they are unable to comply with the Stay Order No.S-1334-1335/KOL/2012 dated 30.10.2012 of the Tribunal and offered to deposit an amount of Rs.2,52,500/- (Rupees Two Lakh Fifty Two Thousand and Five Hundred only).

4. We do not find any discretion to be exercised in this matter and the Stay Order cannot be modified to suit the convenience of the Appellant. However, they are given one final opportunity to comply with the Stay Order, else the Appeal would be dismissed for non-compliance. Compliance to be made within 4(four) weeks from the date of this order and report on 9 May 2023.