

(2001) 03 MP CK 0020

In the Madhya Pradesh High Court

Case No : Writ Petition No. 1150 of 2001

Navneet Botadra

APPELLANT

Vs

Assistant Commissioner, C. Ex.

RESPONDENT

Date of Decision : 28-03-2001

Acts Referred:

Central Excises and Salt Act, 1944 — Section 35F

Citation : (2003) 162 ELT 159

Hon'ble Judges : Dipak Misra, J

Bench : Single Bench

Advocate : Ramesh Shrivastava, for the Appellant; Indira Nair, ASC, for the Respondent

Judgement

Dipak Misra, J.—By this writ petition the petitioner has prayed for issuance of a direction to the respondents No. 3 and 4 to decide the appeal of the petitioner on merit. This Court by order dated 9-3-2001 had directed the learned Counsel for the petitioner to serve a copy of the writ petition on Mrs. Indira Nair, learned Additional Standing Counsel for Union of India.

2. On a perusal of the order, dated 16-7-1999, it transpires that the Tribunal had directed the petitioner to pay Rs. 1 lac. The petitioner deposited Rs. 60,000/- but did not deposit Rs. 40,000/- as a consequence of which, the Tribunal by order, dated 19-11-1999 dismissed the appeal in non-compliance of the provision enshrined u/s 35F of the Central Excise Act, 1944. However, the Tribunal granted opportunity to the petitioner to seek restoration of the appeal if it deposit Rs. 40,000/- on or before 12-9-99. The petitioner did not deposit the amount in question and has approached this Court.

3. Mrs. Indira Nair, learned Additional Standing Counsel for Union of India has raised preliminary objection with regard to the delay and laches on the part of the petitioner.

4. Having heard Mr. Ramesh Shrivastava learned Counsel for the petitioner and

Mrs. Indira Nair, learned Counsel for the respondents. I am inclined to grant an opportunity to the petitioner. If the petitioner deposits Rs. 40,000/- by 7-5-2001 the Customs, Excise & Gold Control Appellate Tribunal shall restore the appeal in question and hear the same on merits. It will be open to the petitioner to seek any other interim relief as may be advised before the Appellate Tribunal.

With the aforesaid direction the writ petition stands disposed of.