Company : CourtKutchehry
Website : www.courtkutchehry.com
Printed For :
Date : 15/09/2026

(2005) 09 P&H CK 0051

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No''s. 716 and 10886 of 2005

Parker Industries APPELLANT

Vs

Commissioner of Customs RESPONDENT

Date of Decision : 12-09-2005

Acts Referred:
Customs Act, 1962 — Section 129E

Citation : (2006) 200 ELT 520

Hon'ble Judges : Kiran Anand Lall, J;Hemant Gupta, J

Bench : Division Bench

Advocate : Jagmohan Bansal, for the Appellant; M.S. Guglani, CGC, for the Respondent

Judgement

Hemant Gupta, J.—This order shall dispose of Civil Writ Petition Nos. 716 and 10886 of 2005 as common questions of law and fact are involved therein.

2. Vide the orders impugned in both the writ petitions, the learned Tribunal has directed the petitioner to deposit a sum of Rs. 3 lacs in one case and Rs. 1.5 lac in the other case as pre-deposit before entertaining the appeals u/s 129E of the Customs Act, 1962.

3. Learned Counsel for the petitioner has relied upon the order dated 7.2.2005 passed by the learned Tribunal in Assessee''s own case whereby the learned Tribunal has not only entertained the appeal without pre-deposit of penalty amount but, in fact, allowed the appeal on merits as well. It is pointed out that, in fact, seven appeals were preferred by the petitioner before the learned Tribunal out of which five appeals were allowed vide order dated 7.2.2005, whereas interim orders were passed in the remaining two appeals which are subject matter of the writ petitions aforesaid.

CWP No. 716 of 2005

4. Sh. M.S. Guglani, learned Counsel for the respondents, could not dispute the factum of decision rendered by the learned Tribunal but pointed out that the

Revenue is in the process of challenging the said decision. The fact remains that as on today the learned Tribunal has decided the appeals filed by the assessee in its favour by dispensing with the condition of pre-deposit.

5. In view of the above, we find that the orders dated 1.12.2004 and 9.5.2005 impugned in Civil Writ Petition Nos. 716 and 10886 of 2005 respectively are clearly not sustainable in view of the findings recorded by the learned Tribunal in its order 7.2.2005.

6. Consequently, the order communicated on 1.12.2004 (Annexure P.4) and order dated 14.1.2005 (Annexure R.2) dismissing the appeal on account of failure to make pre-deposit in CWP No. 716 of 2005 are set aside. Thus, the appeal is ordered to be restored to its original number on the board of the learned Tribunal. For the same reason, order dated 9.5.2005 in CWP No. 10886 of 2005 is also set aside. The learned Tribunal is directed to decide both the appeals in accordance with law.

7. The parties through their learned Counsel are directed to appear before the learned Tribunal on 3.10.2005 for further proceedings.