(2014) 08 BOM CK 0214

In the Bombay High Court

Case No : Customs Appeal No. 55 of 2013

Quality Apparel Exporters Pvt. Ltd.	APPELLANT
Vs	
Commissioner of Cus. (Exports)	RESPONDENT

Date of Decision : 11-08-2014

Acts Referred:

Citation : (2015) 319 ELT 449

Hon'ble Judges : S.C. Dharmadhikari, J;B.P. Colabawalla, J.

Bench : Division Bench

Advocate : N.S. Thacker and Sushanth Murthy i/b Economic Law Practice, for the Appellant; J.B. Mishra, for the Respondent

Judgement

1. We have heard both sides. We have perused the order passed by the Tribunal. Although, various contentions were raised before the Tribunal and in support of prayer for restoration of the appeal, the Tribunal has refused to oblige the appellants and that is how this appeal has been brought by the appellants before us. We have heard Mr. Thacker, the learned counsel appearing on behalf of the appellants and Mr. Mishra, the learned counsel appearing for the Revenue. With their assistance, we have perused the impugned order passed by the Tribunal. We find no fault with the approach of the Tribunal inasmuch as the pre-deposit order was made in the year 2007 and to be precise on 3rd January, 2007 [2007 (210) E.L.T. 452 (Tri.-Mum.)]. That was not complied with, therefore, the appeals came to be dismissed on 10th May, 2007. The Tribunal, therefore, could not have been asked to recall much less review its order on an application for restoration preferred as late as in 2013. In these circumstances, the Tribunal rightly refused to restore the appeals and that too on the ground that the original conditions imposed be waived.

2. Today also we had shown our disinclination to waive any conditions in the order of pre-deposit. However, he says that he has instructions from the appellants to state before this Court that the appellants would comply with the conditions imposed in the order dated 3rd January, 2007 within a period of six

weeks from today. Even though Mr. Mishra submits that, this course, if permitted, would put a premium on the negligence and carelessness of the appellants and parties like the appellants and they would take the court proceedings very lightly, and we see merits in this argument of Shri Mishra as well. However, purely on facts of this case and without creating any precedent for any future case, in the event the appellants comply with the order passed on 3rd January, 2007 within six weeks as stated and pay costs quantified at Rs. 50,000/- (Rs. fifty thousand only) to the Commissioner of Customs (Export), the appeals shall be restored to the file of the Tribunal for being heard on merits and in accordance with law. The failure to comply with this condition would result in automatic dismissal of appeals, and thereafter, no restoration application or applications for extension of time shall be entertained.