(2010) 07 P&H CK 0048

In the Punjab And Haryana At Chandigarh

Case No : C.W.P. No. 11989 of 2010

Surya Steel Industries — APPELLANT

Vs

Commissioner of C. Ex. — RESPONDENT

Date of Decision : 12-07-2010

Acts Referred:
Constitution of India, 1950 — Article 226

Citation : (2010) 257 ELT 513

Hon'ble Judges : Ajay Kumar Mittal, J;A.K. Goel, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Adarsh Kumar Goel, J.—This petition has been filed against the interim order of the Customs, Excise & Service Tax Appellate Tribunal,

New Delhi (in short ""the Tribunal"") declining the prayer of the petitioner for waiver of interest and amount exceeding 25% of the penalty, for

hearing the appeal.

2. We have heard learned Counsel for the petitioner.

3. There are observations in the order passed by the Commissioner (Appeals) that the petitioner was party to evasion of duty. The Tribunal has

recorded that no prima facie case was made out for stay of the order regarding payment of interest or the amount of penalty beyond 25%.

4. Learned Counsel for the petitioner submits that the petitioner may not be liable for the penalty and the interest. He places reliance upon a

judgment of this Court in Commissioner of Central Excise, Delhi-III v. Maruti Udyog Limited 2007 (214) E.L.T. 173 .

5. We are unable to accept the submission. Under Article 226 of the Constitution

of India, this Court is not to weigh merits of the case in golden

scales in a petition against interim order. The matter is pending before the Tribunal and is yet to be adjudicated on merits. There is no ground to

interfere on the issue of waiver of interest or penalty beyond 25%. Order of this Court in Maruti Udyog is distinguishable being on individual facts

when on appeal filed by the Department, this Court found that no substantial question of law arose in that case.

6. Accordingly, the petition is dismissed.

