IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Custom Appeal No. 10 of 2016 (O&M)

Date of Decision: 08.07.2016

M/s Royal Industries Limited

.......Appellant

Versus

Commissioner of Central Excise

......Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Deepak Gupta, Advocate
for the appellant.

RAJESH BINDAL,J.

The challenge in the present appeal is to the order dated 13.10.2014 passed by the Customs, Excise and Services Tax Appellate Tribunal, whereby the appeal filed by the appellant was dismissed on account of non-compliance of the interim order passed for entertainment of appeal regarding pre-deposit of penalty. The interim order was passed by the Tribunal on 4.6.2012. Thereafter instead of complying with the interim order, the appellant continued seeking adjournments before the Tribunal on the plea that the interim order has been challenged in the Court and despite repeated adjournments, no proof was produced before the Tribunal regarding pendency of the litigation in the Court. The appeal was taken up for final hearing on 13.10.2014 and dismissed on that ground. The appeal is accompanied by an application for seeking condonation of delay of 450 days in filing the appeal. The appellant-Company was duly represented before the Tribunal as at the time of disposal of the appeal the Manager of the appellant-Company had appeared. The appellant-company was declared sick by the Board for Industrial and Financial Reconstruction under the provision of Sick Industrial Companies (Special Provisions) Act, 1985, vide order dated 12.9.2005. These proceedings are still pending.

Once the appellant-company failed to comply with the interim order passed by the Tribunal regarding pre-deposit, the aforesaid order though was not challenged any further but before the Tribunal adjournments were sought stating that the order has been impugned before this Court. It was factually incorrect as no proof could be produced. Even after disposal of the appeal by the Tribunal on account of non-compliance of the interim order regarding entertainment of the appeal, the remedy was not sought immediately thereafter and there is delay of 450 days in filing the present appeal. Once the appellant company was pursuing the appeal before the Tribunal, it was represented when the appeal was dismissed, we do not find any reason to condone the delay of 450 days in filing the appeal. Accordingly, the application is dismissed. Consequently the appeal is also dismissed.

(RAJESH BINDAL)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

08.07.2016
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