

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CEA No. 1 of 2014 (O&M)

Date of Decision: 15.9.2014

M/s Cannon Industries (P) Ltd., Ludhiana

....Appellant

Versus

Union of India and another

...Respondent.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.  
HON'BLE MR. JUSTICE FATEH DEEP SINGH.**

PRESENT: Mr. R.S. Rai, Senior Advocate with  
Mr. Gautam Dutt, Advocate and  
Mr. Surjeet Bhadu, Advocate for the appellant.

Mr. Kamal Sehgal, Advocate for the respondents.

**AJAY KUMAR MITTAL, J.**

1. This order shall dispose of CEA Nos. 1, 20 and 21 of 2014 as these arise out of the same order. CEA No.1 of 2014 has been filed by the Company whereas CEA No. 20 of 2014 has been filed by Director Geeta Goyal and CEA No.21 of 2014 has been filed by Director Rakesh Kumar Goyal. For brevity, the facts are being extracted from CEA No. 1 of 2014.

2. CEA No.1 of 2014 has been filed by the assessee under Section 35G of the Central Excise Act, 1944 (in short "the Act") against the order dated 31.7.2013 (Annexure P-4) passed by the Customs, Excise and Service Tax Appellate Tribunal, New Delhi (hereinafter referred to as "the Tribunal"), claiming the substantial questions of law as mentioned in para 8 (pages 3 and 4) of the appeal.

3. The facts, in brief, necessary for adjudication of the present appeal as narrated therein may be noticed. The appellant-M/s Cannon

Industries (P) Ltd. is engaged in the business of manufacture of Acrylic/woollen yarn, readymade garments and clothing accessories and is primarily exporter of various textile articles which are either partly manufactured by them or fully manufactured by job workers in the course of export of finished products. During the period 2004-2007, the appellant was availing the facility of cenvat credit in respect to duty paid on the purchase of raw materials. The cenvat credit was used for payment of duty on goods cleared for export after clearing of rebate of duty. On the exported transaction where credit was used for payment of duty, other export incentives or drawback of DEPB credit was not claimed. A show cause notice dated 14.7.2008 was issued to the appellant. The adjudicating authority vide order dated 31.3.2011 (Annexure P-2) confirmed the demand of ₹ 5,59,50,128/- along with interest and also imposed penalty of an equal amount. Feeling aggrieved, the assessee filed an appeal along with stay application (Annexure P-3) before the Tribunal. The Tribunal vide order dated 31.7.2013 (Annexure P-4) directed the appellant to deposit a sum of ₹ 5 crores towards duty and 50% amount of the penalty as a condition precedent for hearing of the appeal. The Tribunal further ordered to withhold the pending rebate claim amounting to ₹ 1,27,94,964/-. Hence, the present appeal.

4. Learned counsel for the appellant submitted that the appellant has a very good case on merits and the Tribunal has imposed very unreasonable conditions for hearing of the appeal. Similar contention was raised in the case of the directors as well. It was prayed that the Tribunal be directed to hear the appeals without insisting for any pre-deposit from the appellants.

5. Learned counsel for the respondents on the other hand supported the orders passed by the Tribunal and prayed for dismissal of the appeals.

6. The primary dispute that arises for consideration in this appeal relates to the quantum of pre-deposit to be made by the appellant (s) as a condition precedent for the hearing of the appeal.

7. After hearing learned counsel for the parties, keeping in view the totality of the facts and circumstances of the case and in the interest of justice, it is directed that if the company deposits a sum of ₹ 1 crore and the directors in other two appeals deposit ₹ 25 lacs each, on or before 31.10.2014, the Tribunal shall hear the appeals on merits and decide the same expeditiously. However, the rebate claim of an amount of ₹ 1,27,94,964/- which has been withheld on account of the present dispute, shall remain withheld till the disposal of the appeals. The appellant(s) shall deposit the aforesaid amount in addition to ₹ 1,27,94,964/- withheld on account of the present dispute. Further during the pendency of the appeals, the appellants in all the three appeals shall not alienate any immovable property till the decision of the appeals by the Tribunal who shall make sincere efforts for expeditious disposal thereof.

8. The appeals stand disposed of accordingly.

9. This order shall also dispose of all the pending miscellaneous applications.

**(AJAY KUMAR MITTAL)  
JUDGE**

**September 15, 2014**  
gbs

**(FATEH DEEP SINGH)  
JUDGE**

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CEA No. 20 of 2014 (O&M)

Date of Decision: 15.9.2014

Geeta Goyal, Director

...Appellant

Versus

Commissioner of Central Excise, Ludhiana

...Respondent.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.  
HON'BLE MR. JUSTICE FATEH DEEP SINGH.**

PRESENT: Mr. R.S. Rai, Senior Advocate with  
Mr. Gautam Dutt, Advocate and  
Mr. Surjeet Bhadu, Advocate for the appellant.

**AJAY KUMAR MITTAL, J.**

Delay in refiling the appeal is condoned.

For orders, see **CEA No. 1 of 2014 (M/s Cannon  
Industries (P) Ltd., Ludhiana v. Union of India and another).**

**(AJAY KUMAR MITTAL)  
JUDGE**

**September 15, 2014**  
gbs

**(FATEH DEEP SINGH)  
JUDGE**

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CEA No. 21 of 2014 (O&M)

Date of Decision: 15.9.2014

Rakesh Kumar Goyal, Director

...Appellant

Versus

Commissioner of Central Excise, Ludhiana

...Respondent.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.  
HON'BLE MR. JUSTICE FATEH DEEP SINGH.**

PRESENT: Mr. R.S. Rai, Senior Advocate with  
Mr. Gautam Dutt, Advocate and  
Mr. Surjeet Bhadu, Advocate for the appellant.

**AJAY KUMAR MITTAL, J.**

For orders, see **CEA No. 1 of 2014 (M/s Cannon Industries (P) Ltd., Ludhiana v. Union of India and another).**

**(AJAY KUMAR MITTAL)  
JUDGE**

**September 15, 2014**  
gbs

**(FATEH DEEP SINGH)  
JUDGE**