

(1988) 08 AHC CK 0062

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 1463 of 1988

Anandeshwar Pande

APPELLANT

Vs

Collector of C. Ex.

RESPONDENT

Date of Decision : 18-08-1988

Acts Referred:

Central Excise Rules, 1944 — Rule 173, 198

Citation : (1989) 39 ELT 24

Hon'ble Judges : Om Prakash, J;B.N. Misra, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

1. Heard learned counsel for the petitioner and learned Senior Standing Counsel for the respondent at length.

2. The petitioner had earlier filed a writ petition in respect of the same show-cause notice (Annexure-8 to this writ petition) and by order dated 17.2.88 this Court had finally disposed of the said petition with a direction to the Collector, Central Excise, Kanpur, to decide the objections which had been raised by the petitioner on the question whether he was liable to be proceeded against under Rules 198 and 173(q) of the Central Excise Rules, 1944.

3. In the present writ petition, the petitioner's grievance is against the decision of the Collector, Central Excise, who has, by his order dated 4.8.1988, held that the petitioner had been rightly impleaded as a party to the show-cause notice and was liable for further action as indicated in the said show-cause notice. On scrutiny of the order we find that this conclusion of the Collector is not at all supported by any reasons. This infirmity alone is sufficient to vitiate the order. No reasons having been indicated in the impugned order, it cannot be ascertained whether the objection raised by the petitioner had been duly considered before reaching the final conclusion.

4. In the circumstances, we set aside and quash the order of the Collector dated

4.8.1988, extract of which had been given in Annexure-12 to the writ petition, and finally dispose of this writ petition with a direction to the Collector to consider afresh and after giving the petitioner an opportunity to be heard, decide all the objections raised by him in his reply dated 9,12.1987 (Annexure-9) and reply dated 1.8.1988 (Annexure-11-A) in accordance with law, and, giving reasons for the decision. We made it clear that if the petitioner does not appear inspite of notice, the Collector shall be free to proceed with and dispose of the matter as directed above.

5. We further direct that the decision of the Collector should be given within six weeks from the date a certified copy of this order is produced before him. As undertaken by the petitioner, the certified copy shall be produced before the Collector within ten days from today.

6. Further proceedings as against the petitioner pursuant to the show cause notice (Annexure-8) shall await the decision of the Collector on the objections raised by the petitioner.

7. A certified copy of this order shall be handed over to the learned counsel for the parties on payment of usual charges within 48 hours.