(1995) 06 BOM CK 0067

In the Bombay High Court

Case No : Writ Petition No. 46 of 1981

Asian Paints (India) Ltd. APPELLANT

Vs

Union of India RESPONDENT

Date of Decision : 28-06-1995

Acts Referred:

Citation : (1995) 60 ECR 393 : (1995) 79 ELT 581

Hon'ble Judges : G.D. Kamat, J;B.P. Saraf, J

Bench : Division Bench

Judgement

1. The petitioners am manufacturing paints and other products, one such product is known as ''Apester 5262'' since 1968. According to them the said product is a saturated type of polyester Synthetic Resins.

2. It appears that the petitioners filed a classification list but that list did not find favour with the Assistant Collector of Central Excise, Bombay. Being aggrieved by the order of the Assistant Collector of Central Excise, Bombay, dated 30th October, 1974, an appeal was preferred before the Appellate Collector of Central Excise and Customs, Bombay. The Appellate Collector of Central Excise and Customs by his order dated 14th July, 1975 confirmed the order of the Assistant Collector of Central Excise. The petitioner carried the matter in revision before the Government of India. This revision was disposed of by the order bearing No. 554 of 1980, dated 13th June, 1980 by the Additional Secretary to the Government of India. Para 2 of the order makes it clear that the Revisional Authority held it not necessary to grant personal hearing to the petitioners it the revision application. It is otherwise common ground that against the refusal of the stay pending the hearing of the revision petition, the petitioners had instituted a writ petition which however came to be disposed of at the admission stage and it was observed that it was open to the petitioners to raise all contentions before the revisional authority.

3. In our view, the ground of the present petition that the revision petition was disposed of without hearing is well founded. In our view it was necessary for the

revisional authority to hear the petitioners in that revision application. Accordingly, we quash and set aside the order of the Appellate Authority bearing No. 554 of 1980, dated 13th June, 1980 and remand the revision application dated 16th July, 1975 instituted by the petitioners against the order of the Appellate Collector of Central Excise, Bombay dated 14th July, 1975 for hearing afresh on merits after hearing the petitioners. We are told at this stage that after the establishment of Central Excise Gold Appellate Tribunal (CEGAT) all matters pending before the Government of India under the Excise Laws were transferred to CEGAT. It is open to the Government of India to transfer the records to the appropriate bench of CEGAT. The appropriate bench may endeavour to dispose of the matter as expeditiously as possible as the revision application was filed sometime in the year 1980.

4. The interim order made by this Court of 16th January, 1981 to continue till the disposal of the matter by CEGAT and for the period of four weeks thereafter.

5. Rule accordingly made absolute as indicated above. There shall be however no order as to costs.

