
(1997) 10 BOM CK 0034

In the Bombay High Court

Case No : Writ Petition No. 334 of 1997, decided on October 16, 1997

Goa Electricals and Fans Ltd.

APPELLANT

Vs

Asstt. Commr. of C. Ex., Panaji.

RESPONDENT

Date of Decision : 16-10-1997

Acts Referred:

Central Excises and Salt Act, 1944 — Section 35(A), 35F

Citation : (1998) 98 ELT 85

Hon'ble Judges : R.M.S Khandeparkar, J;R.K. Batta, J

Bench : Division Bench

Advocate : Shri H.K. Maingi, for the Appellant; Shri G.V. Tamba, Central Government Standing Counsel, for Shri M.S. Sonak, Additional Central Government Standing Counsel, for the Respondent

Judgement

Batta, J.—Heard. Rule.

2. In these petitions the impugned orders were passed on 28th November, 1996 and 14th October, 1996, respectively, and the petitioners had filed appeals along with applications u/s 35F of the Central Excises and Salt Act, 1944, for waiving/dispensation of deposition. In the meantime, respondent No. 1 had issued notice for recovery. The applications u/s 35F of the said Act were not disposed of but the appeals were heard by the Commissioner of Central Excise (Appeals), Mumbai on 22nd April, 1997, but till today no judgment has been passed disposing of the said appeals. On 12th September, 1997, the goods belonging to the petitioner were attached under Detention Order dated 19th August, 1997.

3. We had made enquiries with the learned Additional Central Government Standing Counsel as to whether the applications u/s 35A under the said Act can be disposed of within a reasonable period of two to three weeks after hearing the petitioners, since the goods of the petitioners had been attached even in spite of the fact that the appeals had been heard on merits on 22nd April, 1997. Today, the Central Government Standing Counsel has placed before us a communication received from the Commissioner of Excise (Appeals), Mumbai, that it is not

possible to hear the petitioners within three weeks on the applications u/s 35F of the said Act, but the matter will be heard and finally decided within three months. Under these circumstances, we are left with no alternative but to order the release of the goods of the petitioners which were attached under Detention Order dated 19th August, 1997. The respondent No. 1 is therefore, directed to release the said goods immediately on the receipt of a copy of this order.