

(1989) 10 AHC CK 0046

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. Nil of 1989

Gopi Krishna Agarwal

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

Date of Decision : 17-10-1989

Acts Referred:

Citation : (1990) 25 ECC 412 : (1990) 26 ECR 599 : (1992) 61 ELT 223

Hon'ble Judges : K.C. Agarwal, Acting C.J.; R.K. Gulati, J

Bench : Division Bench

Advocate : A.P. Mathur, for the Appellant; Shishir Kumar, for the Respondent

Final Decision : Dismissed

Judgement

1. Having heard Shri A.P. Mathur learned counsel appearing for the petitioner and Shri Shishir Kumar counsel appearing for the Union of India, we are of opinion that there are two alternatives before the petitioner at the present. The first is to move an application for recalling order before the appellate authority on the ground that he could not appear due to reasons beyond his control. Every authority has ancillary and incidental power to recall an order, if it is satisfied that the absence was for the reasons beyond the control of the applicant. Such an application has not been moved. The petitioner may, if so advised, move now before the appellate authority.
2. The other alternative is to file an appeal u/s 129A of the Excise Act. Should be Customs Act - Ed.
3. For what we have stated above, we do not consider it a fit case for interference.
4. The writ petition is rejected.