

(1995) 10 AHC CK 0062

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 1045 of 1995

HCL Ltd.

APPELLANT

Vs

Commissioner (Appeals), Cus. and C. Ex.

RESPONDENT

Date of Decision : 31-10-1995

Acts Referred:

Citation : (1996) 81 ELT 481

Hon'ble Judges : V.N. Khare, J;M. Katju, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

1. The petitioner is a Company incorporated under the Companies Act. The petitioner was served with a show cause notice calling upon the petitioner as to why duty should not be charged on the amount recovered by the petitioner from the customers after the warranty period. The petitioner appeared before the Assistant Collector and also submitted explanation. Subsequently notice of demand was confirmed aggrieved the petitioner filed appeals before the Commissioner Central Excise, Ghaziabad now designated as Commissioner (Appeals) Customs and Central Excise, Ghaziabad. Alongwith the appeal the petitioner filed applications for waiver as well as stay of the impugned dues. In paragraph 16 it is alleged that the application for waiver as well as stay application was heard on 11-9-1995 by the Commissioner (Appeals) and thereafter the orders were reserved. It is further alleged that in between the time the respondents have issued notice of demand for deposit of the excise duty which is under dispute in the appeal. It is at this stage that the petitioner has come to this court.

2. By this petition the petitioner prays that a direction be issued to the Commissioner (Appeals), Central Excise, Ghaziabad to decide the stay/waiver application forthwith. After having heard the learned counsel for the petitioner as well as learned counsel for the Central Government and seeing the present facts and circumstances of the case it is appropriate if the Commissioner (Appeals) is

directed to pass orders within ten days from the date a certified copy of this order is produced before him. We accordingly direct the Commissioner (Appeals) Customs and Central Excise, Ghaziabad to deliver the orders on the waiver/stay application filed by the petitioner within ten days from the date of production of a certified copy of this order upon him.

3. In view of the decision in *Vespa Car Co. Ltd. Vs. Assistant Collector of Central Excise*, we direct that the recovery proceedings initiated against the petitioner shall remain stayed for a period of ten days.

4. With these observations the petition is finally disposed of.