
(1986) 10 AHC CK 0012
In the Allahabad High Court
Case No : Civil Miscellaneous W.P. No. 751/86

Hindustan Burlap

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 01-10-1986

Acts Referred:

Central Excises and Salt Act, 1944 — Section 35F
Constitution of India, 1950 — Article 226

Citation : (1986) 10 ECC 336 : (1987) 11 ECR 37 : (1987) 32 ELT 372

Hon'ble Judges : R.P Singh, J; K.C. Agrawal, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. Having heard counsel for the parties we are of opinion that since a second appeal lies as against the order impugned by means of the supplementary affidavit filed before us today, we decline to interfere.
2. It is settled that if there is a statutory remedy provided, this Court should not interfere under Article 226 of the Constitution.
3. The petitioner's counsel urged that the petitioner may not succeed in obtaining a stay order from the Appellate Tribunal therefore, he wanted the aforesaid order to be quashed by this Court by means of the proceedings under Article 226.
4. We do not find that to be a sufficient ground for entertaining the writ petition. To grant a stay or not to do so is the discretion of the authority before whom an appeal lies. Moreover the petitioner u/s 35F of the Central Excise Act can apply for a stay. The Tribunal will be entitled in that event, to consider the pros and cons of the matter and to grant the prayer for stay, if sufficient ground for the same is made out.
5. The writ petition is rejected summarily.