
(1996) 08 AHC CK 0031

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 575 of 1996

India Telecom Ltd.

APPELLANT

Vs

Collector of Customs

RESPONDENT

Date of Decision : 20-08-1996

Acts Referred:

Constitution of India, 1950 — Article 226
Customs Act, 1962 — Section 129E

Citation : (1997) 90 ELT 29

Hon'ble Judges : R.K. Gulati, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

R.K. Gulati, J.—This writ petition is directed against the order dated 12-7-1996 passed by the Customs, Excise and Gold (Control) Appellate Tribunal, New Delhi, By the impugned order the Tribunal has rejected the application of the petitioner seeking dispensation of the requirement of pre-deposit u/s 129E of the Customs Act, 1962. The order of confiscation and imposition of penalty and duty etc. in respect of the goods to which the dispute pertains was made by the Collector of Customs, Customs House, Calcutta arrayed as the second respondent. Against the order of the Collector, Customs, it appears that the petitioners have preferred an appeal before customs, Excise and Gold (Control) Appellate Tribunal, New Delhi together with an application for dispensing the condition of pre-deposit which was rejected has already stated. It would thus be seen that the orders complained of have been passed by the authorities located outside of the territorial limits of this State and an outside jurisdiction of this court. No cause of action or apart thereof has risen to the petitioners within the limits of the State of Uttar Pradesh. The fact that the petitioners have registered office at Dehradun does not help the petitioners to maintain this writ petition before this Court. In *Daya Shanker Bhardwaj v. Chief of the Air Staff, New Delhi and Ors.* - AIR 1983 All. 36, a Division Bench of this Court has held that the cause of action arises by action of Government or authority and not by residence of the person aggrieved.

The jurisdiction under Article 226 of the Constitution of India can be invoked of that High Court alongwith whose territorial limits the cause of action wholly or in part arises. To a similar effect there is another decision of different Division Bench of this Court in Rakesh Dhar Tripathi Vs. Union of India (UOI) and Others, .

2. In view of the rule laid in the aforesaid decisions of this Court, with which I am bound, this writ petition is clearly not maintainable before this Court. The writ petition is, accordingly, dismissed as not maintainable without entering into the merit of the case. However, it shall be open to the petitioners, if so advised, to file a fresh petition before the appropriate court and take such steps or proceedings as may be considered necessary before such court or authority available to the petitioner under law.

3. A certified copy of this order may be supplied to the learned counsel for the petitioners on payment of usual charges within 24 hours.