

(1995) 07 AHC CK 0036

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 618 of 1995

Olympic Petroproducts Ltd.

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

Date of Decision : 27-07-1995

Acts Referred:

Central Excise Rules, 1944 — Rule 52A

Citation : (1996) 83 ELT 270

Hon'ble Judges : M.C. Agarwal, J;B.M. Lal, J

Bench : Division Bench

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

Judgement

1. By this petition, the petitioner seeks a writ in the nature of mandamus directing the respondents to release the seized goods forthwith during the pendency of the writ petition.
2. In short the case is that the petitioner M/s. Olympic Petroproducts Limited is engaged in the manufacture of Polyester Monofilament Yarn, the same is chargeable under the Central Excise Tariff Act, 1985.
3. It is submitted that the Central Excise Department of Meerut visited the premises of the petitioner's mill on 23-8-1994 and seized a truck bearing registration No. U.P.SC/3718 which was loaded with 1039.50 Kgs of Polyester Monofilament Yarn. The truck was parked inside the factory premises, on demand the driver could not produce the relevant excise papers i.e. gate pass for transportation of the seized goods as required under Rule 52A of the Central Excise Rules, 1944, The truck, therefore, was seized alongwith the loaded goods,
4. Against the said seizure the petitioner preferred a writ petition No. 986 of 1994 and this Court by order dated 6-1-1995 directed the petitioner to produce the documents which the department desires and it is also directed that the petitioner may appear before the concerned authority by 16th January, 1995

alongwith the certified copy of the order passed by the Court on 6-1-1995. It is further directed that the petitioner in case has not already produced and if desired to produce the concerned documents in support of his case may produce by 16th January, 1995 or may seek minimum time for producing the same as desired by the authority concerned.

5. It is further directed that the authority concerned will pass appropriate orders after giving opportunity to the petitioner by means of speaking order preferably within a period of one month thereafter. The said authority, apart from taking into consideration the facts and circumstances of the case will also take into consideration paragraph 43 of the Manual for adjudication. With this direction the earlier petition was disposed of.

6. Learned counsel submits that despite issuance of the aforesaid directions by this Court and producing certified copy of the order before the authority concerned on 10th February, 1995 yet no orders have been passed and no heed is being paid by the authority concerned.

7. It is therefore, submitted that having produced the certified copy of the order dated 6-1-1995 it is expected of the authority concerned to pass necessary orders within a month i.e. on or before 10th March, 1995 as per direction issued by this Court referred to above, but the petitioner has made to run from pillar to post and no action is being taken by the authority concerned for the reason best known to it and therefore, the petitioner is again compelled to approach this Court by way of this petition.

8. This Court again by order dated 27-4-1995 more or less repeated his earlier order but all in vain.

9. As a matter of fact for disobeying the order dated 6-1-1995 and 27-4-1995 respectively the petitioner should have approached this Court for taking appropriate action against the respondents for disobeying the order but no such application has been filed. On the other hand, second writ petition on the same ground is not maintainable but since the respondents are avoiding to obey the orders of this Court, therefore, under the facts and circumstances of the instant case the order dated 27-4-1990 (sic) is made absolute.

10. With this direction, this writ petition is disposed of finally.