
(1995) 11 AHC CK 0106

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 67 of 1995

Ravindra and Co.

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

Date of Decision : 13-11-1995

Acts Referred:

Central Excises and Salt Act, 1944 — Section 35

Citation : (1996) 81 ELT 486

Hon'ble Judges : M. Katju, J

Bench : Single Bench

Advocate : S.P. Gupta, for the Appellant;

Final Decision : Allowed

Judgement

M. Katju, J.—This writ petition has been filed against the impugned order, dated 20-12-1994 Annexure 36 to the writ petition.

2. I have heard Shri S.P. Gupta learned counsel for the petitioner and learned counsel for the respondents. It appears that against the order of the Assistant Collector Central Excise, Farrukhabad dated 31-12-1991 the petitioner filed a Writ petition which was disposed of on 6-12-1994, vide Annexure 29 to the writ petition. This Court held that the petitioner has an alternative remedy to file an appeal u/s 35 and the Court allowed the petitioners one month time from the date of the order to file the said appeal. The petitioners filed an appeal on 20-12-1994 which was within the time granted by this Court. This appeal has been dismissed vide Annexure 33 to the writ petition on 22-12-1994 on the ground of limitation. It seems that the petitioners had not been able to submit certified copy of the Judgment dated 6-12-1994 and hence the appeal was dismissed as time barred. In my opinion if the petitioners were unable to file certified copy of this Court's judgment the learned Collector (Appeals) should have granted some more time to the petitioners to obtain certified copy, particularly when an affidavit had been filed before the Collector (Appeals) about the order of the High Court. Thus the impugned order dated 22-12-1994 is

arbitrary and is hereby set aside. The Collector (Appeals), Allahabad is directed to decide the petitioners' appeal on merit within three months of production of certified copy before him.

The writ petition is allowed. No order as to costs.