(1998) 03 AHC CK 0009

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 123 of 1998

Samtel Color Ltd. APPELLANT

Vs

Union of India (UOI) and Another RESPONDENT

Date of Decision : 02-03-1998

Acts Referred:
Customs Act, 1962 — Section 129E

Citation : (1998) 78 ECR 264

Hon'ble Judges : V.P. Goel, J;Ravi S. Dhavan, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Ravi S. Dhavan and V.P. Goel, JJ.—Messrs Samtel Color Limited, G.T. Road, Ghaziabad has filed the present writ petition consequent upon the Additional Commissioner, Central Excise, Ghaziabad, having assessed the petitioner and fixed a liability of Rs. 11,04,533.67 as differential customs duty and Rs. 1,98,817.25 as countervailing duty and, in addition, interest, penalty and personal penalty on the General Manager and the Deputy General Manager. The petitioner filed appeals against these orders on 2 January, 1998 before the Commissioner, Central Excise (Appeals), district Ghaziabad and sought an ad interim stay on this assessment. The contention before the court is that the Department is "pressing hard" on the petitioner to deposit the amount while the appeals and the stay applications are pending consideration.

2. The petitioner acknowledges that u/s 129E of the Customs Act, 1962 a provision to which a reference has been made during submissions, should the appellate authority come to the conclusion that the demand as has been made, may cause undue hardship, then an ad interim order may be made to dispense with the demand regard being had to the interest of the Revenue.

3. On behalf of the petitioner number of decisions are cited; which are appended to the writ petition itself. In two of the decisions, appeals had been made in April

and until December, that is after eight months, the stay application remained pending consideration in a pending appeal. In another decision, measures had been taken as a coercive step to extract the demand from the assessee. In the present case, all that had happened is that the petitioner contends that the Department is pressing for the demand. There is no formality of action that the petitioner has received a memorandum that the amount so assessed be deposited or debited from the account of the petitioner.

4. The appeal has been filed by the petitioner recently, during the first week of January. This petition was processed for filing during the last week of February.

5. This is no occasion for the court to interfere in this petition, at this stage, as on record there is no coercive step to extract the amount so as to aggrieve the petitioner.

6. In the circumstances, without expressing, anything on merits, the Court is not inclined to interfere in the present writ petition, at present. Thus, the petition is consigned but formally as dismissed.

