**(1986) 09 AHC CK 0054**

**In the Allahabad High Court**

**Case No :** Civil Miscellaneous Writ Petition No. 428 of 1986

Sharma Trolly Manufacturers APPELLANT

Vs

Customs, Central Excise and Gold (Control) Appellate Tribunal RESPONDENT

**Date of Decision :** 15-09-1986

**Acts Referred:**
Central Excises and Salt Act, 1944 — Section 35G(3), 36

**Citation :** (1987) 14 ECC 63 : (1987) 13 ECR 427 : (1987) 30 ELT 317

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

**Bench :** Division Bench

**Final Decision :** Dismissed

## Judgement

1. An order was passed by the Collector Central Excise, Kanpur against the petitioner on 19th February, 1979. It preferred an appeal before the Central Board of Excise and Customs, New Delhi on 18th April, 1979. The appeal was dismissed on 31st December, 1979. Thereafter, the petitioner filed the revision u/s 36 of the Customs and Excise Act. After the revision had been filed by the petitioner, the Central Excise Act was amended. By this amendment, Section 35G was inserted under which the Tribunal could send a reference to the High Court if it was satisfied that the case involved question of law. Before the Tribunal, the petitioner raised a number of grounds which are enumerated in paragraph 10 of the writ petition. The application was rejected on 4th April, 1986. Thereafter, instead of filing an application under Sub-section (3) of Section 35G of the Central Excise and Salt Act, the petitioner filed the present writ petition and obtained a stay order. The petitioner''s counsel was informed on the act occasion that the writ petition was not maintainable. The time was sought for converting the writ petition into application for reference, but this has not been done. since a specific remedy for filing an application for reference is provided in the Central Excise Act, this writ petition is not maintainable and is liable to be rejected on that ground.

 

The writ petition is rejected and the interim stay order given on 23rd April, 1986 is withdrawn.