

(1995) 07 AHC CK 0031

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 495 of 1995

Super Electronics

APPELLANT

Vs

Assistant Collector of C. Ex.

RESPONDENT

Date of Decision : 28-07-1995

Acts Referred:

Citation : (1996) 83 ELT 268

Hon'ble Judges : Om Prakash, J;B. Dikshit, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. The only question for consideration in this case is whether an order dated 20-12-1993 (Annexure 2 to the writ petition) passed by the Collector (Appeals) allowing refund to the petitioner has become inoperative by virtue of the fact that an appeal by the respondent against that order is pending before the Central Excise Customs and Gold (Control) Tribunal.

2. It is settled law that no order will become inoperative simply on account of pendency of appeal unless its operation is stayed by higher authority. It is not the case of the respondent that any stay order was obtained from the Tribunal against the order of the Collector (Appeals) and, therefore, that order being final will continue to be operative unless its operation is stayed by the Tribunal.

3. Upon hearing the parties the petition succeeds and is allowed. The respondents is directed to make refund pursuant to the order of the Collector (Appeals) Ghaziabad (Annexure 2 to the writ petition) within one month from the date a certified copy of this order is produced before the respondent by the petitioner.

4. A certified copy of this order will be supplied to the parties on payment within 24 hours, if possible.