

(1985) 11 AHC CK 0006

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 891 of 1985

Sushil Kumar Narendra Kumar

APPELLANT

Vs

Collector of Central Excise and Others

RESPONDENT

Date of Decision : 21-11-1985

Acts Referred:

Central Excise Rules, 1944 — Rule 173G, 52A
Constitution of India, 1950 — Article 226

Citation : (1986) 7 ECC 154 : (1987) 13 ECR 511 : (1987) 28 ELT 203

Hon'ble Judges : Om Prakash, J;A. Banerji, J

Bench : Division Bench

Advocate : R.S. Dhavan, for the Appellant; K.C. Sridhar, for the Respondent

Final Decision : Dismissed

Judgement

1. The petitioner has, come before this court under Article 226 of the Constitution for the release of the seized truck and the goods contained therein which were seized by the Central excise authorities at the Octroi Check Post, Rajghat, Shastri Bridge, Allahabad on 6th Nov., 1985. The petitioner's case is that certain goods were loaded in the truck No, DEG 3333 at Calcutta to be carted and delivered to petitioner's firm at Bahadurgarh, Haryana. The petitioner's case further was that he had paid required duty amounting to Rs. 8,907.36 as required under Rules 52-A and 173-G of the Central Excise Rules. The vehicle along with the goods was seized on 6th November, 1985. The goods have not been released in spite of petitioner's efforts and application. The Central excise authorities had asked the petitioner to pay Rs. 8,907.36 and Rs. 890.74 towards excise duty and cess respectively for the provisional release of the truck and the goods. It is further stated that the petitioner's representatives went to deposit the money but they were told that the release would not be made at Allahabad as the jurisdiction for doing so vested in excise authorities at Calcutta. The petitioner has thereafter come to this Court and has prayed for the release of the truck and the goods and it is also stated that they are prepared to

pay necessary duty for the release of the seized goods.

2. Mr. R.S. Dhawan, Senior Standing Counsel for "the Union of India, appeared in the court in this case and we had asked him whether it was possible that the goods may be released at Allahabad and the same may not be sent back to Calcutta. Mr. Dhawan .informs us on instructions from the respondents No. 1 and 2 that the adjudication proceedings will take place at Allahabad and the seized goods shall not be sent to Calcutta. In view of the above statement we feel that it will be proper to dispose of this writ petition with certain observations only.

3. The seized goods and the truck may be released by the respondents on the petitioner's executing a. bond in. proper form and on furnishing such security that the Collector may require. Reference may be made to Para 43 of Adjudication Manual issued by the Directorate of Customs and Central Excise, New Delhi. We would only expect that the above may be done expeditiously. With these observations the writ petition is dismissed.

4. A certified copy of this order may be given to the learned counsel for the petitioner on payment of usual charges within forty-eight hours.