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(2016) 05 AHC CK 0267

In the Allahabad High Court

Case No : Writ Tax No. 899 of 2013

Swadeshi Polytex Ltd. APPELLANT

Vs

Union of India RESPONDENT

Date of Decision : 05-05-2016

Acts Referred:

Citation : (2016) 336 ELT 596

Hon'ble Judges : Dilip Gupta and Ravindra Nath Kakkar, JJ.

Bench : Division Bench

Advocate : Rahul Agarwal, Counsel, for the Petitioner; R.C. Shukla, SSC, for the Respondent

Final Decision : Disposed Off

Judgement

1. Swadeshi Polytex Limited has filed this petition for a direction upon the Assistant Commissioner of Central Excise Division-V, Ghaziabad to decide the application dated 15 December, 1988 filed by the petitioner for refund of Central Excise duty pursuant to the directions issued by the Central Excise and Gold Appellate Tribunal, New Delhi (hereinafter referred to as the ?CEGAT?) on 12 August, 1996.

2. It is stated that the CEGAT had allowed the appeal filed by the petitioner on 10 August, 1988 holding that the petitioner had rightly availed the benefit of the notification dated 4 February, 1982 which provided for an exemption of Central Excise duty in excess of Rs. 27/- per kg. provided the Polyster Fibre had been manufactured by recycling of waste. The application filed by the petitioner for refund of the amount was earlier rejected by the assessing authority by order dated 16 January, 1990. The petitioner preferred an appeal before the Commissioner of Central Excise (Appeals), which was dismissed by order dated 12 July, 1992. However, the appeal filed by the petitioner before the CEGAT was allowed on 12 August, 1996 and the matter was remanded to the assessing authority for a fresh adjudication with liberty to the petitioner to file additional documents.

3. The grievance of the petitioner is that till date the application has not been decided.

4. Sri R.C. Shukla, learned counsel appearing for the respondents has stated that all endeavours shall be made to decide the application filed by the petitioner expeditiously.

5. This petition is accordingly, disposed of with a direction to the assessing authority to decide the application filed by the petitioner expeditiously and preferably within a period of three months from the date a certified copy of the order is filed by the petitioner.

6. It is made clear that the Court has not adjudicated on the merits of the application, which shall be determined by the assessing authority in accordance with law.

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