

(1995) 07 AHC CK 0131

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 496 of 1995

Tony Electronics Limited

APPELLANT

Vs

ACCE, Div.-I

RESPONDENT

Date of Decision : 28-07-1995

Acts Referred:

Citation : (1995) 61 ECR 190

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 the 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 respondent 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 72 hours.