

(1997) 12 MP CK 0019

In the Madhya Pradesh High Court

Case No : Writ Petition No. 686 of 1997

Umashankar Somani Indl. Textiles

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 15-12-1997

Acts Referred:

Central Excises and Salt Act, 1944 — Section 35
Constitution of India, 1950 — Article 226, 227

Citation : (1998) 76 ECR 225

Hon'ble Judges : Deepak Verma, J

Bench : Single Bench

Judgement

Deepak Verma, J.—By filing this Petition, under Articles 226/227 of the Constitution, Petitioner is praying for quashment of Order dt. 27.3.1997, passed by Commissioner (Appeals) (Annexure P. 5).

2. It is not in dispute, that Petitioner's Appeal is still pending disposal on merits. While disposing of the Petitioner's application for grant of stay, filed along with the Appeal, u/s 35(f) of the Central Excise Act, the Commissioner (Appeals) has rejected the Petitioner's stay application and also directed that in case Petitioner fails to comply with the direction of the Adjudicating Authority, the Petitioner's Appeal itself would stand dismissed on merits.

3. This Court was pleased to pass an order dt. 29.4.1997 staying the operation of the said order by, which, direction was given, that in case of non-compliance, the Petitioner's Appeal would be dismissed. On account of the Order of stay, passed by this Court, Petitioner's Appeal is still alive.

4. I have gone through the Impugned Order. I find that it calls for no interference, except, that the Petitioner's Appeal has to be heard on merits, even, if the Petitioner had failed to comply with the order, passed by the Adjudicating Authority, it is expected of the Appellate Authority to take-up the Petitioner's Appeal, as expeditiously, as may be possible and preferably within a period of four months hereof. However, it is clarified that instead of dismissing

the Petitioner's Appeal, for non-compliance, it is directed that Respondents shall be at liberty to proceed to recover the amount from the petitioner as adjudicated upon by the Adjudicating Authority.

5. With these observations, this petition stands finally disposed of, but, with no order as to costs within 2 days.