

(1994) 01 AHC CK 0034

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 136 of 1994

U.P. State Bridge Corporation Ltd.

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

Date of Decision : 19-01-1994

Acts Referred:

Citation : (1994) 74 ELT 824

Hon'ble Judges : M.C. Agarwal, J;B.M. Lal, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. By this petition, petitioner seeks a writ of certiorari quashing the order dated 29-10-1993 passed by the Customs, Excise and Gold (Control) Appellate Tribunal, New Delhi, whereby the petitioner's application for seeking exemption from pre-deposit of the duty amount of Rs. 37,85,530.60 is modified Rs. 10 lacs (Rupees ten lacs only) in cash and furnish bank guarantee for an amount of Rs. 5 lacs to the satisfaction of the Collector, Customs within three months from the date of the receipt of the order.

2. It is also directed that during the pendency of the appeal the Revenue Authority shall not proceed with the recovery proceedings for the balance duty amount. It is also made clear that in case the petitioner fails to comply with the aforesaid terms, the concession granted to him shall stand automatically vacated and 4 months time for compliance of the order was granted and case was directed to be put up before the authority on 22-2-1994.

3. Against this order, petitioner has filed this writ petition contending that equipments in question were 14 years old. Thus while calculating the value, the depreciation value of the equipments was not taken into consideration and depreciation value ought to have been calculated on the residual value of the equipments at the time of shipment from Iraq. It is contended that the petitioner is running the losses and is not in a position to comply with the order impugned.

4. Having heard the learned counsel, this Court is of the opinion that the Appellate Tribunal has already considered the case of the petitioner and has extended maximum possible concession in favour of the petitioner in the matter of pre-deposit of the duty amount which is more than 37 lacs.

5. The submission made by the petitioner referred to above was also taken into consideration by the Tribunal and in this regard submission made that the petitioner is suffering huge losses is of no consequence and on this ground it cannot be inferred that petitioner is not in a position to deposit duty amount which has already been reduced by the Tribunal.

6. Learned counsel appearing for the petitioner referred two decisions rendered in M.C. Goel Vs. Union of India (UOI) and Others, and U.P. Lamination Vs. Union of India (UOI) and Others, . These decisions are distinguishable on facts of the instant case, hence are of no avail to the petitioner.

7. The writ petition, thus, lacks merit. No interference in writ jurisdiction is called for. Petition is, therefore, dismissed.