

**(1991) 03 AHC CK 0127**

**In the Allahabad High Court**

**Case No :** Civil Miscellaneous Writ Petition No. Nil of 1991

U.P. State Cement Corporation Ltd.

APPELLANT

Vs

Collector, Central Excise and Another

RESPONDENT

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**Date of Decision :** 27-03-1991

**Acts Referred:**

**Citation :** (1992) 38 ECR 170

**Hon'ble Judges :** B.P. Jeevan Reddy, C.J.;S.R. Singh, J

**Bench :** Division Bench

**Final Decision :** Disposed Of

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## **Judgement**

B.P. Jeevan Reddy, C.J.

1. The petitioner is a Government Company wholly owned and controlled by the State of U.P. The respondents (Officers of the Central Excise Department) have passed orders levying duty upon clinker, not actually utilised in the manufacture of cement, but which was lost while being transported from the pit-head. According to Annexure-I to the writ petition, a copy of which is enclosed to this order, there are three categories of demands. The first category comprises 16 demands, second category 8 demands and the third category two demands. The petitioner's case is that it has already filed appeals and obtained stay orders in respect of 8 demands mentioned in category-II. It is further said on behalf of the petitioner that so far as demands contained in categories I and III are concerned i.e. 15 and 2 respectively, there is still time for filling the appeals and that the petitioner would be filing the appeals along with the stay applications within the period of limitation. It is further stated that in spite of the appeal time not having expired, and in spite of the stay orders issued by the tribunal, the respondents are seeking to recover the duty demanded in all the said demands, the learned Counsel is not however, in a position to specifically assert that even duty which is covered by the stay orders, is being recovered, we presume that no such thing is happening. So far as demands contained in categories I and III are concerned, since the appeal time is not yet over and also because the petitioner is a

Government company, we are inclined to stay the said demands for a period of two months from today. Within this period, the petitioner shall file the appeals and obtain appropriate orders in the said petition, if he is so advised. It is clarified that detention of cement stocks of the petitioner, shall be lifted and the cement shall be permitted to be removed by the petitioner, but shall be subject to further orders that may be passed in the said application by the appellate authority or by other appropriate court or authority.

2. With the aforesaid observations, this petition is disposed of finally.