

(1991) 05 AHC CK 0021

In the Allahabad High Court

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

Vespa Car Co. Ltd.

APPELLANT

Vs

P.K. Singh, AC CE, CE Division and Others

RESPONDENT

Date of Decision : 21-05-1991

Acts Referred:

Citation : (1992) 39 ECR 253

Hon'ble Judges : B.P. Jeevan Reddy, C.J;R.B. Mehrotra, J

Bench : Division Bench

Judgement

1. Heard the counsel for the petitioner and also the learned Chief Standing Counsel for the respondents.

2. This writ petition is directed against an interlocutory order dated 18.2.1991 dismissing the stay application filed by the petitioner in two appeals, namely, appeals nos. 179 and 180 of 1990 on the file of Collector (Appeals) Central Excise, Allahabad. The order gives reasons for rejecting the stay applications. The counsel for the petitioner, however says that the petitioner was not actually heard on the date of hearing and that an application for adjournment was sent and in spite of the same the applications were disposed of ex pane.

3. We do not propose to enquire into the truth or otherwise of the petitioner's allegation. Having regard to the facts and circumstances of the case, we direct that pending the said appeal before the Collector (Appeals) the recovery of the disputed duty is stayed to the extent of 1/3rd provided that 2/3rd of the same is deposited by the petitioner within one month from today. In default the stay order shall stand automatically vacated. In case the petitioner complies with this order, the scooters seized towards recovery of the duty in dispute in these appeals shall be released. For a period of one month, specified herein, the auction/sale of the scooters shall remain stayed.

4. The writ petition is disposed of with the above direction.