

**Commissioner of Central Excise Vs. Alfa Engineers**

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**SooperKanoon Citation :** [sooperkanoon.com/13025](http://sooperkanoon.com/13025)

**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

**Decided On :** Mar-07-1998

**Reported in :** (1998)(100)ELT157Tri(Mum.)bai

**Appellant :** Commissioner of Central Excise

**Respondent :** Alfa Engineers

**Judgement :**

1. The appeal is against the order of the Collector (Appeals) setting aside the order of the Assistant Collector ordering confiscation of three electric motors and imposing penalty on the assessee.
2. I have heard the departmental representative. The assessee requests adjournment.
3. Order of the Collector (Appeals) setting aside the Assistant Collector's order on the ground that when notice was not issued to the assessee is challenged on the ground that the matter should have been remanded to the Assistant Collector for decision afresh particularly in view of the fact that the assessee has waived the issue of formal notice.
4. There is no provision in the Central Excise Act or Rules provision for waiver of notice prescribed in Section HA for recovery of duty short levied or non-levied. A waiver of such a notice therefore, has no significance in law. The alleged non-levy took place in 1988 and any notice now issued will be barred by limitation.

