

Ramesh Kumar, Proprietor of Vs. Collector of Customs and Central

Ramesh Kumar, Proprietor of Vs. Collector of Customs and Central

SooperKanoon Citation : sooperkanoon.com/1749

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jul-23-1984

Reported in : (1985)LC489Tri(Delhi)

Appellant : Ramesh Kumar, Proprietor of

Respondent : Collector of Customs and Central

Judgement :

1. In this case, the impugned order was passed by the Additional Collector of Central Excise, Chandigarh, in the capacity of Gold Control Officer. According to a number of decisions taken by this Tribunal, especially in Appeal No. GC(DEL)26/82-NRB (Order No.779/83-NRB dated 24-11-83) in the matter of S.S. Agarwal, Kanpur, vs.

Collector of Central Excise, Kanpur, 1985 (22) ELT 482 (Tribunal) it has been consistently held that appeals against the orders of Additional Collector of Central Excise, passed under the Gold (Control) Act, are to be dealt with by the Collector (Appeals) and not the Tribunal.

2. Shri J.F. Anand, the learned representative for the respondent, brings to our attention an amendment dated 6-6-84 (S.O. No.417-E).

According to this amendment, in the Table annexed to Notification No.S.O. 985(E) dated 27-12-1980, serial number 3 and the entries relating thereto shall be omitted. The effect of this amendment, prima facie, seems to be to remove the

limitations on the powers to be exercised by the Additional Collector while adjudicating under the Gold (Control) Act.

3. We have examined this Notification with reference to the Tribunal's order referred to earlier. This order passed by a 3-Member Bench dated 24-11-1983 held that inasmuch as the Additional Collector has not been equated to a Collector in the Gold (Control) Act, the appeal would lie to the Collector (Appeals) and not to the Tribunal. The present amendment, in our opinion, does not change the situation. We, therefore, hold that in this case the correct appellate authority is the Collector (Appeals) and not the Tribunal.

4. We accordingly order that this appeal be transferred to the Collector (Appeals), New Delhi, under intimation to the appellant and his Counsel.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com