

**Collector of Central Excise Vs. Koilite Inds. P. Ltd.**

**Collector of Central Excise Vs. Koilite Inds. P. Ltd.**

**SooperKanoon Citation :** [sooperkanoon.com/3221](http://sooperkanoon.com/3221)

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

**Decided On :** Feb-17-1987

**Reported in :** (1989)(24)LC525Tri(Delhi)

**Appellant :** Collector of Central Excise

**Respondent :** Koilite Inds. P. Ltd.

**Judgement :**

1. The department has come forward with this appeal against the order passed by the Appellate Collector of Central Excise, Calcutta, dated 14-6-1982.
2. The Asstt. Collector confirmed the demand for differential duty after classifying the indicator lamps under sub-item 1 of Item No. 32 in view of Trade Notice No. 22/Electric Bulbs 3c Tubes-2/1980, dated 21-1-1980. In the appeal, the Appellate Collector held that the Collector, Central Excise, Calcutta had issued subsequent Trade Notice No. 223/Electric Bulbs & Tubes-4/1980, dated 3-12-1980 wherein the earlier Trade Notice (mentioned supra) was withdrawn. Instructions were issued to decide the earlier cases as if the said Trade Notice did not exist. The appeal was allowed. It is seen from the records that the Government wanted to review the matter because the indicator lamps would be classifiable as electrical lighting under sub-item (4) of Item No. 32 in view of the Trade Notice dated 21-1-1980. The view held by the Appellate Collector that all indicator lamps would fall under T.I.32(1) was not correct.
3. We must point out that there is no regular appeal filed before us.

In the Form A-3- relating to reliefs claimed in appeal, there is an arrow mark mentioning "AS IN ANNEXURE-A". The grounds of appeal have not been set out as required under the Rules. Rule 8 of the Customs, Excise and Gold (Control) Appellate Tribunal (Procedure) Rules, 1982 envisages that every Memorandum of Appeal should set forth concisely and under distinct heads the grounds of appeal and such grounds shall be very consecutively numbered and shall be typed in double space on one side of the paper. We have to point out that the grounds of appeal have not been set out in the papers. The department cannot by an arrow mark require the Tribunal to peruse the Annexures and cull out the grounds therefrom. In the absence of grounds of appeal, this appeal has necessarily to be rejected.

4. Section 35B(2) provides for an appeal by the Collector, Central Excise. The section prescribes that the Collector may direct any Central Excise Officer authorised by him in this behalf to appeal on his behalf to the Appellate Tribunal. There is no such authorisation filed in the papers. The Dy. Collector, Central Excise, Calcutta has filed the appeal but there is nothing on record to show how he was authorised to file this appeal. We are constraint to point out that the proceedings have been taken in a casual manner and none of the rules regarding filing of the appeal have been followed either. The appeal by the department puts the other party to a disadvantage in that has to defend himself. In such circumstances, we desire to point out that greater care and circumspection should be taken by the concerned officers rather than just to transmit certain pieces of paper to the office of the Tribunal and rest content that they have filed an appeal.

We have, therefore, no hesitation in rejecting this appeal for non-compliance of Section 35B(2) and Rule 8 of the Customs, Excise & Gold (Control) Appellate Tribunal (Procedure) Rules.

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**