Commissioner of Central Excise Vs. Reliable Safety Glass and Shri Sandeep Gangal, Managing Director

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SooperKanoon Citation : sooperkanoon.com/477809

Court : Allahabad

Decided On : Jul-09-2004

Reported in : 2004(96)ECC176; 2005(179)ELT385(All)

Judge : M. Katju and ;R.S. Tripathi, JJ.

Acts : Central Excise Act - Sections 35C(2A)

Appeal No. : Central Excise Appeal No. 69 of 2004

Appellant : Commissioner of Central Excise

Respondent : Reliable Safety Glass and Shri Sandeep Gangal, Managing Director

Advocate for Pet/Ap. : B.N. Singh, S.S.C. and ;A.K. Srivastava, Addl. S.C.

Judgement :

M. Katju, J.

1.This appeal has been filed under Section 35G of the Central Excise Act against the impugned order of the Customs, Excise and Service Tax Appellate Tribunal dated 27.1.2004.

2. A perusal of the impugned order dated 27.1.2004 shows, that the Tribunal has partly heard the appeal and it has extended the stay order dated 13.6.2003.

3. Learned counsel for the appellant has submitted that in view of the second proviso to Section 35C(2A) of the Central Excise Act, 1944 the stay order dated 13.6.2003 stood vacated.

4. In our opinion the order dated 27.1.2004 in substance amounts to a fresh stay order. We cannot construe the second proviso to Section 35C(2A) to mean that merely because the initial stay order stood vacated, there can be no fresh stay order. In fact if such an interpretation is taken it would mean that a party would suffer merely because of the default of the Tribunal in expeditiously disposing of his appeal. In our opinion such interpretation should be eschewed as it would not be in the interest of the justice.

5. We therefore dismiss this appeal but direct that the Tribunal shall decide the appeal pending before it very expeditiously.