

Surendra Enterprise Vs. Union of India (Uoi) and ors.

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Court : Allahabad

Decided On : Aug-21-1990

Reported in : 1990(31)LC393(Allahabad)

Judge : B.P. Jeevan Reddy, C.J. and ;R.R. Misra, J.

Appeal No. : Civil Misc. Writ Petition No. Nil of 1990

Appellant : Surendra Enterprise

Respondent : Union of India (Uoi) and ors.

Disposition : Petition dismissed

Judgement :

1. The writ petition is directed against a proceeding dated 24.7.1990 of the Assistant Collector (Valuation), Central Excise, Kanpur addressed to the petitioner intimating him that the 'Zarda' sold by him in retail packets in the brand name is dutiable order the heading 24.01 (sic). This proceeding was issued in reply to a letter of the petitioner dated 11.7.1990 in which he contended that the packets contain tobacco and nothing else. The petitioner says that according to trade notice No. 136 of 87 it falls under heading 24.01 of the Schedule to the Central Excise and Tariff Act and must be treated as unmanufactured tobacco.

2. An appeal lies against the impugned notice under Section 35 of the Central Excise Act. There is no reason why the petitioner should not adopt the said

statutory remedy nor there is any reason why should he be allowed relief by this Court at this stage.

3. The writ petition is, accordingly, dismissed on the said ground. It shall be open to the petitioner to file an appeal as provided by Section 35 along with a stay petition. If such an appeal and stay petition is filed, the authority shall dispose it of within one month of its filing.

4. Copy of this order may be supplied to the petitioner's counsel on payment of usual charges within 24 hours.

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