

Vijay Prakash Vs. Collector of Central Excise

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Court : Allahabad

Decided On : Sep-02-1997

Reported in : 1999(105)ELT562(All)

Judge : Om Prakash and ;R.K. Gulati, JJ.

Acts : Gold (Control) Act, 1968; [General Clauses Act, 1897](#) - Sections 6

Appeal No. : Civil Misc. Writ Petition No. 275 of 1994

Appellant : Vijay Prakash

Respondent : Collector of Central Excise

Disposition : Petition dismissed

Judgement :

1. The petitioner seeks quashing of the impugned order passed by the Customs, Excise & Gold (Control) Appellate Tribunal, Annexure-6 to the Writ petition.
2. Counsel for the petitioner submits that remedy of reference under Gold (Control) Act, 1968 is not available to the assessee against the Tribunal's order, inasmuch as the Act stood repealed on 6-6-1990. In this connection, Section 6 of the [General Clauses Act, 1897](#) may be usefully referred. Clause (e) of Section 6 of that Act when properly read, states that where any Central Act made after the commencement of the General Clauses Act repeals any enactment hitherto made,

then unless a different intention appears the repeal shall not affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the repealing Act has not been passed.

(emphasis supplied)

3. From a perusal of Section 6 of the General Clauses Act, it is clear that the remedy of reference will not be affected, which the petitioner may avail in accordance with law.

4. The petition is dismissed on the ground of alternative statutory remedy of reference.

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