

Ester Industries Ltd. Vs. Union of India (Uoi) and ors.

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Court : Allahabad

Decided On : Mar-17-1998

Reported in : 1998(78)LC269(Allahabad)

Judge : Ravi S. Dhavan and ;V.P. Goel, JJ.

Appeal No. : Civil Misc. Writ Petition No. 149 of 1998

Appellant : Ester Industries Ltd.

Respondent : Union of India (Uoi) and ors.

Disposition : Petition allowed

Judgement :

ORDER

Ravi S. Dhavan and V.P. Goel, JJ.

1. The order sought to be impugned, which aggrieves the petitioner, is dated 27.2.1998 (Annexure 8 to the writ petition).
2. This order has been issued by the Superintendent, Central Excise, Range-1, Khatima, respondent No. 7.
3. The petitioner accepts that in some matters Appeals have been filed and are pending and in some matters hearing has concluded but judgment is awaited.

Learned Counsel fairly concedes that any interim order which could be passed by the High Court can be passed by the authority which is seized of the Appeals. In the context of the present case the Commissioner (Appeals) under Section 35F of the Central Excise and Salt Act, 1944 is the Appellate Authority, and the petitioner has a remedy to approach the Appellate Authority and seek consideration of an ad-interim prayer. Rushing in a writ petition before the High Court with an alternate remedy available was mis-conceived.

4. The writ petition is consigned to the record and dismissed.

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