

Assistant Collector of Central Excise and anr. Vs. Abdul Wahab and anr.

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Court : Chennai

Decided On : Jun-21-1984

Reported in : 1986(24)ELT28(Mad)

Judge : K.M. Natarajan, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 377(2)

Appeal No. : Criminal Appeal Nos. 463/77 and 837/79

Appellant : Assistant Collector of Central Excise and anr.

Respondent : Abdul Wahab and anr.

Advocate for Def. : P. Rajaraman and ;Abdul Ghani, Advs.

Advocate for Pet/Ap. : P. Rajamanickam, Public Prosecutor for Customs

Judgement :

1. Both the appeals have been filed by the Assistant Collector of Central Excise, Vellore and Assistant Collector of Customs, Madras-1 for enhancement of sentence under Section 377(2) Criminal Procedure Code.
2. The main question involved in both the appeals is about the maintainability of the appeals. My attention was drawn to the decision of a Bench of this Court in Assistant Collector of Central Excise (Preventive) Madras v. V. Krishnamurthy (1) wherein Natarajan, J. and Ratnavel Pandian, J. have held that an appeal preferred

by the Assistant Collector of Central Excise under Section 377(2). CrI.P.C. through his counsel, on the ground of inadequacy of sentence awarded, is not competent, and is liable to be dismissed for that reason. In view of the Bench judgment, these two appeals have to be dismissed on the ground that the Assistant Collector of Central Excise is not competent to file the appeals for enhancement of sentence under Section 377(2), CrI.P. C. Hence dismissed.

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