
(1997) 10 AHC CK 0104

Allahabad High Court

Case No: Civil Misc. Writ Petition No. 698 of 1997

Modi Rubber Limited

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision: Oct. 28, 1997

Citation: (1998) 74 ECR 492

Hon'ble Judges: R.K. Gulati, J; Om Prakash, J

Bench: Division Bench

Final Decision: Disposed Of

Judgement

1. Heard counsel for the parties.

2. The petitioner seeks quashing of impugned order dated 20.10.1997, an-nexure-1 to the writ petition, passed by the Assistant Commissioner, respondent No. 3.

3. The petitioner addressed a letter dated 17.10.1997, annexure-6 to the writ petition, stating that the Superintendent (Tech.) advised the petitioner not to utilise the MODVAT credit of Additional Excise Duty (AED) lying in RC 23A Part II towards the payment of Basic Excise Duty (BED). Feeling aggrieved of such direction of the Superintendent, the petitioner requested respondent No. 3 in the letter dated 17.10.1997 as follows:

...you will kindly appreciate that we have already given you a detailed legal opinion on the subject. In case you do not concur with our stand, you may issue the necessary show cause notice and thereafter giving us an opportunity for personal hearing and adjudicate the matter which is the normal procedure.

4. The grievance of the petitioner is that without giving an opportunity of personal hearing, respondent No. 3 passed the impugned order dated 20.10.1997, annexure-1 to the writ petition.

5. When the petitioner sought an opportunity of personal hearing, respondent No. 3 should have accorded an opportunity of personal hearing to the petitioner before

passing the impugned order dated 20.10.1997 which does not indicate that such opportunity was given. The order is, therefore, not sustainable.

6. On these facts, the petition is disposed of finally right at this stage under the Rules of the Court. The impugned order dated 20.10.1997, annexure-1 to the writ petition, is quashed. Respondent No. 3 is at liberty to pass a fresh order after affording an opportunity of personal hearing to the petitioner.

7. Certified copy of the order will be given to the parties on payment within two days.