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**(1998) 07 AHC CK 0131**

**Allahabad High Court**

**Case No:** Civil Misc. Writ Petition No. 236 of 1998

Ravi Steel

APPELLANT

Vs

CEGAT and Others

RESPONDENT

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**Date of Decision:** July 24, 1998

**Acts Referred:**

- Central Excises and Salt Act, 1944 - Section 35G

**Citation:** (1998) 78 ECR 261

**Hon'ble Judges:** S.L. Saraf, J

**Bench:** Single Bench

**Final Decision:** Disposed Of

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### **Judgement**

@JUDGMENTTAG-ORDER

S.L. Saraf, J.

Heard learned Counsel for the parties.

2. The petitioner has filed this writ application challenging the order dated 27th February, 1998 passed by the Customs, Excise and Gold (Control) Appellate Tribunal, New Delhi, and also the order dated 4th February, 1997 passed by the said Tribunal u/s 35G(1) of Central Excise and Gold Act, 1944.

3. The case of the petitioner is that the question of limitation was not decided by the Tribunal which was very much involved in the appeal. It appears from the record that the question of limitation was specifically taken and adjudicated upon by the Assistant Collector, Faizabad Division, vide order dated 18th April, 1995. The matter was taken to the first appellate authority and subsequently before the Tribunal. From the record it does not appear that specific ground of limitation was taken. However, in the order passed by the Tribunal on stay application of the petitioner, where the Tribunal granted a total stay against the recovery proceedings and waived the pre-deposit of duty, it observed as under:

Before amendment of Rule 57-I on 16.3.1995 the relevant law provided for computing the time only from the date of taking the credit. Demand on this amount is time barred.

4. In that view of the matter, I am inclined to hold that the Tribunal was not justified in disposing of the appeal without dealing with the case of question of "time barred". As such, the matter is remanded back to the Customs, Excise and Gold (Control) Appellate Tribunal, New Delhi, to be disposed of within two months from the date of service of a certified copy of this order. The Tribunal shall consider the question of "time barred" and amend the order passed in appeal accordingly.

5. The petition stands disposed of accordingly.