

Shree Traders Vs Union of India (UOI) and Another

Court: Allahabad High Court

Date of Decision: July 13, 2000

Acts Referred: Income Tax Act, 1961 â€" Section 33, 35

Citation: (2001) 75 ECC 264 : (2000) 92 ECR 452

Hon'ble Judges: M. Katju, J; A.K.Yog, J

Bench: Division Bench

Final Decision: Disposed Of

Judgement

@JUDGMENTTAG-ORDER

M. Katju, J.

The petitioner is a trader dealing in various metals and metalwares. On 5.3.2000 the truck of the petitioner was seized in

district Saharanpur loaded with Copper sheets and circles.

2. The petitioner applied for release of the truck before the Deputy Commissioner, Central Excise vide Annexure A-3 to the writ petition. He sent

another reminder. The petitioner thereafter received letter dated 30.3.2000 of the Superintendent, Central Excise Saharanpur stating that the Duty

Commissioner has observed that the application for provisional release will be considered after completion of the investigation vide Annexure A-5

to the writ petition.

3. A counter affidavit has been filed in which it has been alleged in paras 6, 8 and 9 that the petitioner transported goods through an unusual route

without payment of excise duty. In our opinion the petitioner has an alternative remedy under the Central Excise Act and Rules.

4. u/s 33 the power of adjudication is with the Commissioner and Under Rule 206(3) the goods can be released pending adjudication after

furnishing such security as the Commissioner may require. Also u/s 35(2) the petitioner has a remedy to approach the Commissioner against any

order of the subordinate authority. Hence the petitioner should avail of the alternative remedies under law, and if he approaches the concerned

authority his representation shall be decided preferably within two months thereafter in accordance with law. The petitioner may also approach the

Commissioner if his appeal is not being decided, and the Commissioner will do the needful.

5. Petition is finally disposed of with the aforesaid observations.