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(1993) 01 MP CK 0003

Madhya Pradesh High Court (Indore Bench)

Case No: M.P. 1288/90

Kwality Products and Another		APPELLANT
	Vs	
Union of India (UOI) and Others		RESPONDENT

Date of Decision: Jan. 18, 1993

Acts Referred:

- Constitution of India, 1950 - Article 226

Citation: (1993) 48 ECR 256

Hon'ble Judges: V.D. Gyani, J; M.W. Deo, J

Bench: Division Bench

Judgement

@JUDGMENTTAG-ORDER

1. By this petition under Article 226 of the Constitution the petitioner seeks to challenge order dated 12.4.1990 (Ann. "J") passed by the Assistant Collector, Central Excise, Indore Division.

2. The Petitioner M/s Kwality Products filed a claim on the ground that the company was entitled to benefit of exemption up to Rs. 15 lacs for each calegorics of heading Nos. 2201 and 2202 under notification No. 175/86. This claim was turned down on the ground that it was barred by time.

3. Shri Neema learned standing counsel for the Union of India contends that the petitioner ought to have filed his claim for refund within the statutory time as prescribed. Although learned Counsel was permitted in refuting his. contention by saying that he can point out that the claim as filed was well within time. Be that as it may be.

4. As pointed out by the Supreme Court in Madras Port Trust Vs. Hymanshu International by its Proprietor V. Venkatadri (Dead) by L.R.s, the plea of limitation

should not have been invoked by the Assistant Collector. It is contrary to the Principles as laid down by the Supreme Court.

5. Learned Counsel for the petitioner placing reliance upon the decision of the Supreme Court in the Madras Port Trust (supra) submitted that it docs not be hove the State to invoke such pleas of limitation in order to defeat otherwise a just claim.

6. Following the aforesaid decision of the Supreme Court the impugned order dated 12.4.1990 (Ann. T) is liable to be set aside. It is accordingly set aside. Consequently the respondent No. 3 is directed to consider the petitioner''s claim on merits and decide the ame in accordance with law. With this direction the petition stands finally disposed with o order as to costs. The security amount be refunded after verification.