

(1995) 07 BOM CK 0074**Bombay High Court****Case No:** Writ Petition No. 1641 of 1987

Amin Mehdi Merchant	APPELLANT
Vs	
S.M. Karnik, Asstt. Coll. of Customs, Bombay	RESPONDENT

Date of Decision: July 12, 1995**Citation:** (1995) 60 ECR 382 : (1995) 80 ELT 777**Hon'ble Judges:** S.H. Kapadia, J; M.L. Pendse, J**Bench:** Division Bench**Judgement**

Kapadia, J.

By this petition, petitioner seeks refund of Rs. 47,182.32 pursuant to the Order of Customs, Excise and Gold (Control) Appellate Tribunal dated May 28, 1986. Facts giving rise to this petition briefly are as follows :-

Petitioner imported components of footwear viz. plastic heels in February 1982. At the time of clearing of the said consignment, the petitioner was assessed for import duty of Rs. 62,136.57. Petitioner paid duty on April 26, 1982 petitioner applied to respondent No. 1 for refund on the ground that recovery of duty has been made in excess by the Department. By an Order dated August 25, 1982 the respondent No. 1 rejected the petitioner's claim. Petitioner preferred Appeal on November 29, 1982 to the Appellate Collector. By an Order dated January 31, 1984 the Appellate Collector set aside the Order passed by the respondent No. 1 and directed refund of the amount of Rs. 47,182.32. Being aggrieved by the said Order, the Department preferred an Appeal to CEGAT. By an Order dated May 28, 1986 CEGAT rejected the Department's Appeal. Since May 28, 1986 till today, the petitioner has not received refund of Rs. 47,182.32. The only defence raised by the respondents is that the petitioner was not entitled to refund particularly in view of the fact that Appeal has been rejected by CEGAT only on technical ground. We are also informed that no further proceedings have been taken by the Department against the rejection of Appeal by CEGAT on May 28, 1986. In the circumstances, the respondents are

directed to refund the said amount of Rs. 47,182.32 with interest at the rate of 12% p.a. from the date of the Order of CEGAT dated May 28, 1986 till payment.

2. Accordingly, Writ Petition is allowed with costs.