

Supreme Court of India

Todi Industries Ltd. vs Union Of India (Uoi) And Ors. on 9 November, 1998

Equivalent citations: 1999 (65) ECC 6, 1999 (111) ELT 8 SC, (1999) 9 SCC 230

Bench: S Majmudar, K Thomas

ORDER S.B. Majmudar and K.T. Thomas, JJ.

1. We have heard learned Counsel for the parties. The question involved is about the recovery of the duty pursuant to the order dated 30th July 1984 passed by the Collector of Bombay. This order could have been made subject matter of an appeal under Section 128 of the Customs Act, 1962. Only on this short ground and without expressing any opinion on the merits of the controversy between the parties we decline to entertain this petition under Article 136 of the Constitution of India and relegate the petitioner to the said remedy of an appeal. We make it clear that the observations of the High Court while disposing of the writ petition will not come in the way of the either side in getting the matter decided before the competent appellate authority in accordance with law. In short all the legally permissible contentions will be open to both the sides for consideration of the appellate authority. As the time for filing the appeal by now has expired, we grant six weeks time to the petitioner to file the aforesaid statutory appeal.

2. In view of the time granted to the petitioner to file statutory appeal status quo regarding recovery in question should be maintained for seven weeks.

3. We make it clear that grant of any further stay will depend upon the decision of the appellate authority and the present grant of status quo order will not come in the way of the appellate authority in passing appropriate orders on the stay petition if and when moved.

4. Subject to the aforesaid observations this Special Leave Petition is disposed of.