

(1996) 12 SC CK 0026
In the Supreme Court Of India
Case No : Civil Appeal No. 3121 of 1990

Abrol Watches Pvt. Ltd.

APPELLANT

Vs

Collector of Customs, Bombay

RESPONDENT

Date of Decision : 17-12-1996

Acts Referred:

Citation : (1998) 77 ECR 246 : (1997) 92 ELT 311 : (1997) 11 SCC 321

Hon'ble Judges : S. P. Bharucha, J;S. C. Sen, J

Bench : Division Bench

Final Decision : Allowed

Judgement

S.P. Bharucha, J.—The assessee imported horological machinery. It was imported to be installed in a watch making factory. The import was treated as a project import within the meaning of Chapter 98 of the First Schedule of the Customs Act and the goods were cleared under Heading 98.01.

2. To project imports an Exemption Notification dated 19th April, 1985, as amended from time to time, applied. At the relevant time, such project imports were exempted from the Customs duty leviable thereon in excess of 20% ad valorem. The Notification added,

Nothing contained in this notification shall affect the exemption granted under any other notification of the Government of India for the time being in force from the duty of customs specified in the said First Schedule in respect of the goods referred to in this notification.

3. There was another Exemption Notification, which was dated 28-2-1985 as amended on 1-6-1985, which granted exemption from Customs duty to horological machines and testing equipments for manufacture or assembly of mechanical and quartz analog wrist watches and parts thereof over and above 10% ad valorem.

4. The assessee claimed the benefit of the second of the two Notifications

referred to above (now called "the horological notification"). The Tribunal took the view that, since the assessee had chosen the classification under Chapter 98 as a project import, the assessee was not entitled to the benefit of the larger exemption given by the horological notification. The Tribunal relied upon a judgment of the Madras High Court in this behalf.

5. The horological notification exempted, as aforestated, horological machines, etc., without specifying the heading under which they fell. There fore, provided the machines were horological machines, they were entitled to the benefit of the exemption thereunder. The Madras High Court's judgment dealt with a case where the assessee claimed the benefit of an exemption notification which specified a particular heading, and it was held that since the assessee had chosen to classify his imports under that particular heading, he could not be granted an exemption that applied to another heading.

6. The clause that we have quoted from the project imports notification clearly specified that the exemption thereunder granted would not affect the exemption granted in respect of Customs duty under any other notification. The two notifications read together, therefore, leave us in no doubt that the view taken by the Tribunal was erroneous. Though the assessee had cleared his goods under Heading 98.01, it was, for the reasons aforestated, entitled to the benefit of the exemption given by the horological notification.

7. The appeal is allowed. The order under appeal is set aside. Refund shall be made in accordance with law.

8. No order as to costs.