(2003) 09 SC CK 0133

In the Supreme Court Of India

Case No : Civil Appeal No. 6451 of 2001

Aman Marble Industries Pvt. Ltd. APPELLANT

Vs

Collector of C. Ex. RESPONDENT

Date of Decision : 18-09-2003

Acts Referred:

Citation : (2003) 90 ECC 805 : (2003) ECR 4 : (2003) 157 ELT 393 : (2005) 1 SCC 279

Hon'ble Judges : S. Rajendra Babu, J;G. P. Mathur, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. Question that arises for consideration in this appeal is one whether the cutting of marble blocks into marble slabs amounts to manufacture for the purpose of the Central Excise Act. The Tribunal by a majority decision took the view that the commodity in question falls within entry 25.04 of the Tariff but to examine certain aspects on facts remitted the matter to the assessing authority.

2. The contention put forth on behalf of the appellant is that the activity carried on by the appellant does not amount to manufacture at all. The case put forth by the learned Counsel appearing on behalf of the appellant is that the cutting of blocks into marble slabs involves only sawing of the marble blocks and thereby does not bring into existence a distinct commodity so as to state that when such activity is completed a new substance has come into existence. The submission is that even after such activity is completed the marble will remain marble and, therefore, this activity does not attract tax.

3. Learned Counsel for the department however submitted that the activity has been specifically brought into Tariff item and when certain processes are applied to a commodity to make it marketable, it certainly amounts to manufacture and thereof attracts tax under the Central Excise Act.

4. In Rajasthan State Electricity Board Vs. Associated Stone Industries and

Another, such a question fell for consideration before this Court although in a different context, and this Court held as follows :

".. .This a part excavation of stones from a mine and thereafter cutting them and polishing them into slabs did not amount to manufacture of goods. The word "manufacture" generally and in the ordinary parlance in the absence of its definition in the Act should be understood to mean bringing to existence a new and different article having distinctive name, character or use after undergoing some transformation. When no new product as such comes into existence, there is no process of manufacture. The cutting and polishing stones into slabs is not a process of manufacture for obvious and simple reason that no new and distinct commercial product came into existence as the end product still remained stone and thus its original identity continued."

and this position was further reiterated as follows :

"... It is not possible to accept that excavation of stones and thereafter cutting and polishing them into slabs resulted in any manufacture of goods."

5. In the light of this decision we have no hesitation in holding that the activity carried on by the appellant does not amount to manufacture. We set aside the order passed by the Tribunal and allow this appeal.