(2015) 04 SC CK 0022

In the Supreme Court Of India

Case No : Civil Appeal No. 6010 of 2004

Bata India Ltd. — APPELLANT

Vs

Commissioner of C. Ex., Bangalore — RESPONDENT

Date of Decision : 15-04-2015

Acts Referred:

Citation : (2015) 321 ELT 194 : (2015) 14 SCC 696

Hon'ble Judges : A.K. Sikri and Rohinton Fali Nariman, JJ.

Bench : Division Bench

Advocate : S/Shri A.K. Panda, Senior Advocate, Rajesh Pathak, Ms. Rashmi Mahotra, R.K. Verma, S.K. Pathak and B. Krishna Prasad, Advocates, for the Respondent; S/Shri S.K. Bagaria, Senior Advocate, Neeraj Shekhar, Ashutosh Thakur, Rana Prashant and K. Ajit Singh, Advocates, for the Appellant

Final Decision : Allowed

Judgement

1. After hearing learned counsel for the parties for some time we are of the opinion that the Tribunal has rightly come to the conclusion that the appellant herein did not satisfy the conditions mentioned in the Notification dated 23-7-1996 which grants exemption from payment of excise duty, inter alia, in respect of footwear and hawai chappal if the retail sale price does not exceed Rs. 75/-. No doubt, goods in question sold by the appellant on retail price, namely, the foot wear, was at less than Rs. 75/- per pair. However, we find that the said Notification also imposed a specific condition to the effect that the goods are to be consumed within the factory for their production. In the instant case the goods were sent to the other factories for production. Therefore that condition is clearly not satisfied.

2. However, insofar as penalty imposed upon the appellant is concerned, we are inclined to set aside the same simply on the ground that the appellant has its own factory where the goods in question viz. the inputs are used for manufacture of footwear. However, for a brief period during which there was some labour problems in the appellant''s own factory, the production was outsourced and

exemption claimed for that period under bona fide belief.

3. The appeal therefore is allowed to the limited extent by setting aside the penalty while maintaining the demand.