(2002) 04 SC CK 0143

In the Supreme Court Of India

Case No : Civil Appeal 3071 of 2000

Bhilwara Synthetics Ltd. APPELLANT

Vs

Commissioner of Central Excise, Jaipur RESPONDENT

Date of Decision : 30-04-2002

Acts Referred:
Central Excises and Salt Act, 1944 — Section 3

Citation : (2002) 83 ECC 8 : (2002) 103 ECR 796 : (2002) 143 ELT 22 : (2003) 9 SCC 63

Hon'ble Judges : Shivaraj V. Patil, J;N. Santosh Hedge, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. After hearing the learned Counsel for the parties, we think this appeal could be disposed of on a very short point. The Tribunal held :

"Therefore, payment of duty by the appellants in the instant case, at the stage of doubled or multifold yam is immaterial and is not required to be considered. They are liable to pay excise duty on the single ply yam being the manufactured product. They cannot deny their liability to pay the excise duty on the plea that they had paid duty on the doubled/multifold yarn. They, if so advised may claim adjustment or refund of that duty amount but cannot seek exemption from payment of excise duty on the single ply yarn."

2. We agree with the above finding of the Tribunal. However, it is necessary to protect the interest of the assessee so we make it clear that if the appellant has paid duty on the double ply yarn, the said amount will be adjusted or set of given to the appellant in accordance with law on the appellant making appropriate application to the concerned authorities. We, however, make it clear that the appellants will not be entitled to any refund on this count.

3. The appeal is disposed of in the above terms.

