(2002) 12 SC CK 0054

In the Supreme Court Of India

Case No : Civil 2312 of 1995

Collector of Central Excise — APPELLANT

Vs

Maize Products — RESPONDENT

Date of Decision : 17-12-2002

Acts Referred:

Citation : (2003) 151 ELT 484 : (2003) 10 SCC 759

Hon'ble Judges : M. B. Shah, J;D. M. Dharmadhikari, J

Bench : Division Bench

Advocate : Prateek Jalan and B. Krishna Prasad, for the Appellant; Praveen Yashank Adhyaru Nandini Gore, Devang S. Nanavati, Deepak Shukla and Nirmala Gupta for Nanavati Associates and T. Viswanathan, Vishwanath Shukla and V. Balachandran, for the Respondent

Final Decision : Allowed

Judgement

1. Heard the learned Counsel for the parties.

2. The Collector (Appeals) arrived at the conclusion that glucose syrup/liquid glucose was classifiable under Central Excise Tariff subheading No. 1702.19. That finding was reversed by the Customs, Excise and Gold (Control) Appellate Tribunal, New Delhi (for short 'the Tribunal') by impugned judgment dated 9-11-1994 passed in Final Order Nos. 428 to 430/94-D by arriving at the conclusion that the said product was classifiable under sub-heading 1702.29. It is pointed out that the aforesaid view of the Tribunal is accepted by the Department and the Board has issued following circular :-

Liquid glucose--Classification of (Sub-heading 1702.29)

Attention is invited to Section 37B Order No. 1/93, dated 11-3-1993 issued from F. No. 14/1/91-CX. I ordering classification of Liquid Glucose under sub-heading 1702.19 of the schedule to the Central Excise Tariff Act, 1985. But in a case of 1994 (72) ELT 753 , the CEGAT held that correct classification of Liquid Glucose should be under sub-heading No. 1702.29 as other preparations of other sugars and not under sub-heading No. 1702.19. The above order was appealed against before the Supreme Court but the Supreme Court dismissed the Deptt.'s appeal under order, dt. 13-2-1996. In a subsequent case relating to M/s. Rajaram Maize Products, the Deptt.'s appeal before CEGAT against Commissioner (Appeal)'s order holding the classification of liquid glucose under sub-heading 1702.29, was rejected vide Order No. 717/99-D, dated 9-8-1999 in view of the Supreme Court's aforesaid order. When Ministry of Law was consulted in the matter, the Solicitor General opined that there is no case for civil appeal against this order, dated 9-8-1999 of CEGAT as the issue had achieved finality after the Supreme Court confirmed the Sukhjit Starch and Chemical Ltd. judgment of CEGAT. Accordingly, the Tribunal's order has been accepted by the Department.

Now, therefore, in exercise of the powers conferred u/s 37B of the Central Excise and Salt Act, 1944 (1 of 1944) henceforth referred to as Act and for the purpose of ensuring uniformity in classification, Board hereby withdraws the Section 37B Order No. 1/93, dated 11-3-1993. Board further directs that a copy of this order be sent to ail Commissioners who shall inform the trade and all other officers employed in execution of the provisions of the Act.

[Source : M.F. (D.R.) Section 37B Order No. 56/1/2000-CX, dated May, 2001]

3. In this view of the matter, these appeals would not survive and are, therefore, dismissed. There shall be no order as to costs.

