(1997) 09 SC CK 0027

In the Supreme Court Of India

Case No : Civil Appeal No''s. 2822 of 1987, 4668 and 4826-33 of 1989, 1246 of 1990, 636 and 2768 of 1991, 504 and 2504-06 of 1992, 403 of 1994 and 8786 of 1995 and SLP No''s. 15606-08 of 1991

Collector of Central Excise — APPELLANT

Vs

Ram Body Builders — RESPONDENT

Date of Decision : 02-09-1997

Acts Referred:

Citation : (1998) 77 ECR 437 : (1997) 94 ELT 442 : (1998) 4 JT 425 : (1997) 8 SCC 482

Hon'ble Judges : S. C. Agrawal, J;G. T. Nanavati, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

S.C. Agrawal and G.T. Nanavati, JJ.—[Civil Appeal Nos. 636/1991, 504/1992,1246/1990, 8786/1995, 4826-33/1989, 4668/1989, 403/1994, 2768/1991, 2504-2506/1992 and SLP (C) Nos. 15606-08/1991] - In these matters the respondents are small scale manufacturers who build or fabricate only bodies for buses or trucks on chassis supplied by their customers. The question that falls for consideration in these appeals and special leave petitions is whether the bodies so manufactured are classifiable under Heading No. 87.07 or under Heading Nos. 87.02 and 87.04 of the Central Excise Tariff. If the bodies are held to be classifiable under Heading No. 87.07 the same would be entitled to exemption from excise duty under Notification No. 175/86, dated March 1, 1986. The Division Bench of the High Court of Punjab and Haryana by its judgment dated December 19, 1989 under challenge in SLP Nos. 15606-08 of 1991 has held that the bodies were covered by Heading No. 87.07 as claimed by the assessee and not by Headings Nos. 87.02 and 87.04 as claimed by the Revenue. The same view has been taken by the Customs Excise and Gold (Control) Appellate Tribunal (hereinafter referred to as ''the Tribunal'') in various judgments which are under challenge in these appeals. Civil Appeal No. 531 of 1994 as well as in Civil Appeal No. 2138 of 1989 filed by the Revenue against the judgments of the Tribunal taking the same view have been dismissed by this Court. We have heard the learned Counsel for the Revenue and we have perused the impugned judgments. We are in agreement with the views of the High Court as well as of the Tribunal that the bodies which are built on chassis supplied by the customers would fall under Heading No. 87.07 of the Central Excise Tariff and would be entitled to exemption from excise duty under Notification No. 175/86, dated March 1, 1986. The appeals as well as the special leave petitions are, therefore, dismissed.

[Civil Appeal No. 2822 of 1987]

2. In Civil Appeal No. 2822 of 1987, the Tribunal has held that the respondents are liable to pay excise duty @ Rs.4,000/- per vehicle on the basis of Notification No. 279/86, dated April 24, 1986. The respondent has not challenged the said view of the Tribunal and has paid the duty as per the said decision. While dismissing the above appeal filed by the Revenue, it is made clear that the impugned judgment of the Tribunal in so far as it relates to imposition of excise duty @ 4,000/- per vehicle will remain undisturbed. No costs.