

**(2003) 03 SC CK 0022**

**In the Supreme Court Of India**

**Case No :** C. A. No. 74 of 2001, 96, 1701, 3138, 4206 of 2002, 1988 of 2003

Collector of Central Excise

APPELLANT

Vs

Technoweld Industries

RESPONDENT

---

**Date of Decision :** 27-03-2003

**Acts Referred:**

**Citation :** (2003) 155 ELT 209 : (2003) 11 SCC 798

**Hon'ble Judges :** S. N. Variava, J;H. K. Sema, J

**Bench :** Division Bench

**Final Decision :** Dismissed

---

## **Judgement**

1. A common question arises in all these matters. All these appeals are thus being disposed of by this common order.

2. In all these appeals, the respondents purchased duty paid wire rods and drew the wire into a thinner gauge. The question is whether by drawing wire into a thinner gauge, manufacture has taken place. The question is whether the wire of the thinner gauge is excisable to duty.

3. This question came to be considered by the Customs, Excise and Gold (Control) Appellate Tribunal. In the case of 2001 (127) ELT 155 . By an order dated 2nd November, 2000, it was held that the process of drawing wire from wire rods did not amount to manufacture. The Tribunal based its decision on an earlier decision of the Tribunal in the case of Jyoti Engg. Corpn. v. Collector of Central Excise reported in 1989 (42) E.L.T. 100 (Trib). In Jyoti's case (supra) the concerned tariff entry was 26AA(i-a) which included Bars, Rods, Coils, Wires etc. The Tribunal has held that the raw material was a wire rod and the final product was also a wire. It has held that no new product has come into existence and that there was no manufacture. Civil appeals filed against both the aforementioned decisions were dismissed.

4. Thereafter, the Tribunal has been following these decisions in all cases. One of such case, was the case concerning M/s. Hind Enterprises. The civil appeal

against that order was also dismissed by this Court on 9th August, 2002.

5. Reliance was placed upon the authority of this Court in the case of S. Shanmugavel Nadar Vs. State of Tamil Nadu and Another, . It was submitted that all the civil appeals had been dismissed by non-speaking orders. It was submitted that it is open to this Court to consider whether or not the impugned decisions of the Tribunal are correct. There can be no dispute, with this proposition. We have, therefore, heard the learned Counsel at length.

6. It is submitted that in Jyoti's case (supra), the decision was based upon the fact that there was only one tariff item, namely, 26AA(i-a). It is submitted that now tariff items 72.13 and 72.15 deal with Bars and Rods whereas tariff item 72.17 deals with Wires. Reliance is also placed upon Chapter Note 1(o) which defines "Wire" as Cold-formed products in coils, of any uniform solid cross-section along their whole length, which do not conform to the definition on flat-rolled products.

7. This Court was also taken through the processes, which are undergone by the manufacturer and which have been set out in some of the orders passed by the Commissioner. It was submitted that the raw material is a rod falling under tariff item 72.13 and/or 72.15 whereas after the process a distinct and separate marketable product falling under tariff item 72.17 has come into existence. It was submitted that the market price of both the products is also different inasmuch as the cost of the raw material was approximately Rs. 13,000/- per metric ton whereas for the final product the market price was approximately Rs. 15,000/- per metric ton. It was submitted that under these circumstances, the Court must now hold that the earlier decisions of the Tribunal are not correct and that the final product i.e. the Wire which is drawn by the cold drawing process is an excisable product,

8. We are unable to agree with the submission. It is to be seen that the initial product was a wire rod. The ultimately product is also a wire. All that is done is that the gauge of the rod is made thinner and the product is finished a little better. In our view the earlier decisions of the Tribunal are correct. There is no manufacture of a new product. Merely because there are two separate entries does not mean that the product becomes excisable. The product becomes excisable only if there is manufacture.

9. In this view of the matter, we see no reason to hold otherwise. Accordingly, all the appeals are dismissed. There will be no order as to costs.