(1996) 10 SC CK 0073

In the Supreme Court Of India

Case No : Civil Appeal Nos. 184-187 of 1986

Collector of Central Excise, Baroda APPELLANT

Vs

Vipul Shipyard RESPONDENT

Date of Decision : 29-10-1996

Acts Referred:

Citation : (2000) 72 ECC 250 : (1996) 88 ELT 640 : (1997) 10 SCC 337

Hon'ble Judges : S. P. Bharucha, J;S. B. Majmudar, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

S.P. Bharucha and S.B. Majmudar, JJ.—We have read the judgment and order of the Customs, Excise & Gold (Control) Appellate Tribunal, New Delhi, under appeal and heard counsel. We are of the view that the judgment cannot be assailed.

2. The judgment deals with various notifications which grant exemption from excise duty to "ocean-going vessels". The Tribunal came to the conclusion that the vessels concerned in the appeal were ocean-going vessels. It did so upon the basis of the stipulations in the contracts for their manufacture, the permission given to these vessels to voyage upon the open sea and the provisions of the Merchant Shipping Act.

3. The contention of learned Counsel for the Revenue is that it is the end-use of the vessels which is relevant and that the end-use of these vessels was as barges within inland waters.

4. Excise duty is a levy on manufacture. These vessels were built and equipped for traversing the ocean, which is what "ocean-going vessels" means. At the point of time when they were built and the liability of excise duty arose, they clearly were "ocean-going vessels". Apart from this, they did thereafter traverse the open sea. That, though so built, they are used in inland waters is of no consequence. They must be held to be entitled to the exemption conferred by the notifications.

5. The appeals are dismissed. There will be no order as to costs.

