
(1994) 08 SC CK 0028

In the Supreme Court Of India

Case No : Civil Appeal No's. 2719-20 of 1987, 1046 and 3809 of 1988 and C.A. No. 5679 (NM) of 1994 (Arising out of SLP (C) No. 407 of 1984)

Collector of Central Excise, Indore

APPELLANT

Vs

Madhyapradesh Electricals Ltd.

RESPONDENT

Date of Decision : 22-08-1994

Acts Referred:

Citation : (1994) 48 ECC 164 : (1994) 73 ELT 263 : (1994) 5 JT 314 : (1994) 3 SCALE 839 : (1994) 6 SCC 149

Hon'ble Judges : S. P. Bharucha, J;K. S. Paripoornan, J;J. S. Verma, J

Bench : Full Bench

Final Decision : Dismissed

Judgement

1. Leave to appeal granted in SLP (C) No. 407 of 1984.
2. The point at issue in these civil appeals being the same, they can be disposed of by a common judgment. By way of illustration, the facts in the case of Madhyapradesh Electrical Ltd. (C.A. No. 1046/88) are set out.
3. The assessee manufactures copper and aluminium electrical conductors. It purchases duty paid wire rods of copper and aluminium of electrical grade and subjects them to the process of pickling and shaving. Thereafter, the wire rods are drawn to reduce their diameter. They are then passed through a wire flattening mill to obtain rectangular conductors. The conductors undergo the process of insulation.
4. The Assistant Collector of Excise took the view that the insulated strips merited classification under the residuary tariff item 65. The assessee appealed and the Collector (Appeals) held that classification under tariff item 68 was more specified but he restricted the period for which such assessment could be made. Before the Tribunal, the point in issue was whether the insulated copper or aluminium strips were liable to duty under tariff item 68 or whether they were more properly classifiable under tariff items 26 and 27 respectively. The Tribunal

took the view that the insulated copper or aluminium strips were not liable to duty again under tariff item 68 and the demand in that behalf could not be sustained.

5. The excise authorities are in appeal before us.

6. Tariff item 26A deals with copper; sub-item 2 thereof deals with manufactures of copper, including strips. Tariff item 27 deals with aluminium and sub-item (b) thereof with its manufactures, including strips, Tariff item 68 deals with "all other goods not elsewhere specified".

7. Mr. Ashok Grover, learned Counsel for the assessee in Civil Appeal No. 1046 of 1988, and Mr. K.J. John, learned Counsel for the assessees in the other civil appeals, stated that they were not questioning the assessees liability to pay excise duty a second time around, i.e., consequent upon the processing of the strips into insulated strips. In their submission, the assessees' liability to pay excise duty upon the insulated strips was in terms of tariff items 26A (2) for copper insulated strips and 27(b) for aluminium insulated strips. Mr. Ganguli, learned Counsel for the Revenue, submitted, on the other hand, that insulated strips were not specified in tariff items 26B and 27 and, therefore, tariff item 68 was applicable thereto.

8. Copper and aluminium strips, even though insulated, remain copper and aluminium strips and fall within the manufactures of copper and aluminium respectively. Tariff items 26A and 27 are, therefore, closely related to and identifiable with insulated copper and aluminium strips respectively. Tariff item 68, which speaks of goods which are not elsewhere specified in the schedule, is, consequently, inapplicable. We are, therefore, of the view that the assessees must be assessed upon the insulated wire under tariff items 26A and 27.

9. The appeals are dismissed. There shall be no order as to costs.