(1990) 12 SC CK 0001

In the Supreme Court Of India

Case No : Civil Appeal No''s. 3593-94 of 1989

Collector of Central Excise, Jaipur APPELLANT

Vs

Rajasthan State Chemical Works, Deedwana, Rajasthan RESPONDENT

Date of Decision : 18-12-1990

Acts Referred:

Citation : (1991) 31 ECC 459 : (1990) 4 JT 748 : (1990) 2 SCALE 1271 : (1991) 2 SCC 622 Supp : (1991) 1 UJ 384

Hon'ble Judges : P. B. Sawant, J;L. M. Sharma, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Lalit Mohan Sharma, J.—The respondents are engaged in manufacture of salt and crude sodium sulphate. They were served with notices demanding payment of excise duty on the clearance of crude sodium sulphate. The respondents resisted on the ground that crude sodium sulphate was the residue in the manufacture of salt and it was covered by a notification granting exemption to goods produced without the aid of power.

2. Admittedly brine is pumped from a well into salt pans by using electric power. In the salt pans salt is formed by the process of natural evaporation of water. During the course of formation of salt some quantity of sodium sulphate present in the brine also crystallizes and settled at the bottom in the form of crust. After salt is removed from the pans the sodium sulphate lying at the bottom of the pans becomes available. The question is as to whether power can be said to have been used in relation to the manufacture of the chemical by reason of the fact that brine is pumped into the salt pans with the aid of electricity. By the impugned judgment the CEGAT, conferring the order of the Collector, agreed with the respondents holding that no power was used in the manufacture of crude sodium sulphate.

3. Reliance has been placed on behalf of the appellant on the decisions in the

Union of India (UOI) Vs. Delhi Cloth and General Mills, and Standard Fireworks Industries, Sivakasi and Another Vs. Collector of Central Excise, Madurai, , in support of the argument that the movement of the brine from the well to the salt pans with the aid of power deprives the respondents of the benefits of the exemption notification. The learned Counsel for the respondents has attempted to distinguish the cases by reference to the facts and has contended that mere use of power in transferring the raw materials cannot be said to be use of power in the process of manufacture of final product because it is not a process of manufacture. Reference has been made to the decision of the Gujarat High Court in Nirma Chemical Works and Others Vs. Union of India and Others, .

4. After hearing the learned Counsel for the parties, we are of the view that the case may be placed for hearing before a Bench of three Judges. Let the records be placed before the Hon'ble the Chief Justice for orders.

