

(1997) 10 SC CK 0009

In the Supreme Court Of India

Case No : Civil Appeal No. 5362 of 1990

Collector of Customs, Bangalore

APPELLANT

Vs

Motor Industries Co. Ltd., Bangalore

RESPONDENT

Date of Decision : 14-10-1997

Acts Referred:

Citation : (1998) 79 ECR 762 : (1997) 96 ELT 505 : (1998) 8 JT 119 : (1998) 9 SCC 446

Hon'ble Judges : S. C. Agrawal, J;B. N. Kirpal, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. We have heard Shri N.K. Bajpai, the learned counsel for the appellant. The question that falls for consideration is whether the calcined alumina imported by the respondent should be assessed at a concessional rate of duty as goods imported for the manufacture of refractory product under Notification No. 49/87/Cus. dated 1-3-1987. Calcined alumina that was imported by the respondent was for use in the manufacture of insulators required for the manufacture of spark plugs and that insulator is a refractory product. In the impugned judgment the Customs, Excise and Gold (Control) Appellate Tribunal (hereinafter referred to as "the Tribunal") has taken the view that the product manufactured by the respondent is a refractory product and, therefore, the respondent was entitled to the benefit of concessional duty under the said notification.

2. Shri Bajpai has urged that spark plugs manufactured by the respondent are electrical insulators falling within Chapter 85 of the Customs Tariff and they are expressly excluded under Note 2(e) of Chapter 69 of the tariff. On a perusal of Heading 69.03 in Chapter 69 of the Customs Tariff we find that "plugs" are expressly mentioned in the said heading. Since plugs are expressly included in Heading 69.03, there is no scope for holding that spark plugs manufactured by the respondent are not refractory products in view of Note 2(e) of Chapter 69 of the Customs Tariff. The Tribunal has, therefore, rightly held that the benefit of

concessional rate of duty under notification dated 1-3-1987 had to be given on the import of calcined alumina by the respondent. In the circumstances, we do not find any merit in the appeal and the same is accordingly dismissed. No order as to costs.