(1997) 09 SC CK 0127

In the Supreme Court Of India

Case No : Civil Appeal No''s. 2156 of 1987, 1234-49, 1363-64 and 1416 of 1988, 1716-19 and 1743-47 of 1989 and 5971-72 of 1990

Collector of Customs, Bombay APPELLANT

Vs

Dai-Ichi Karkaria Ltd. RESPONDENT

Date of Decision : 02-09-1997

Acts Referred:

Citation : (1997) 95 ELT 7 : (1998) 9 SCC 231

Hon'ble Judges : S. C. Agrawal, J;G. T. Nanavati, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. These appeals raise a common question relating to classification of Polypropylene Glycol imported by the respondents for the purpose of levy of customs duty. In the impugned judgments the Customs, Excise and Gold (Control) Appellate Tribunal (hereinafter referred to as "the Tribunal") has accepted the case of the respondents that the said product is classifiable under Item 38.01/19(1) of the Customs Tariff Act, 1975 as claimed by the assessee and not under Item 39.01/06 as contended by the Revenue. The said view of the Tribunal is in consonance with the law laid down by this Court in Collector of Customs, Bombay Vs. Bhor Industries Ltd., wherein this Court has laid down that "plasticisers" are classifiable under Heading No. 38.01/19(6) and not under 39.01/19(6).

2. Shri M. Gourishankar Moorthy, learned Senior Counsel appearing for the Revenue, states that the appellants do not dispute that the goods imported are covered by the said decision of this Court in Collector of Customs, Bombay Vs. Bhor Industries Ltd., because Polypropylene Glycol is used as plasticisers. In these circumstances, the impugned judgments of the Tribunal are upheld.

3. As regards refund of the customs duty, the matter has to be considered by the Assistant Commissioner of Customs and, while considering the said matter the

Assistant Commissioner of Customs will proceed in accordance with the law laid down by this Court in Mafatlal Industries Ltd. and Others Vs. Union of India (UOI) and Others, The appeals are dismissed accordingly. No orders as to costs.

