(1997) 02 SC CK 0180

In the Supreme Court Of India

Case No : Civil Appeal No. 4468 Of 1986

Collector of Customs, Bombay APPELLANT

Vs

Saurashtra Chemicals RESPONDENT

Date of Decision : 21-02-1997

Acts Referred:

Citation : (1997) 91 ELT 246 : (1997) 10 SCC 346

Hon'ble Judges : K. S. Paripoornan, J;B.P. Jeevan Reddy, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

B.P. Jeevan Reddy and K.S. Paripoornan, JJ.—Heard the learned Counsel for the parties.

2. The Tribunal has held that the machinery in question namely Grinding Discs fall within Tariff Item 84.56 which reads as follows :

3. The Revenue's case was that the said goods fall under Tariff Item 84.59 which reads as follows :

84.59 : Machines and mechanical appliances, having individual functions, not falling within any other heading of this Chapter :

(1) Not elsewhere specified 60%

(2) Machines and mechanical appliances designed for the production of a commodity, machinery for treating metals, wood or similar materials, for stripping and cutting of tobacco leaf or for cutting or rolling tea leaves, machines for mounting card clothing; nuclear reactOrs.

4. A reading of the Entry 84.56 would show that the machinery, to fall under the said Tariff Item, should be a machinery for inter alia grinding or mixing earth, stone, ores or other minerals substances, in solid (including powder and paste) form.

5. We find from a perusal of the impugned judgment that the Tribunal has not gone into the question nor has it decided the issue whether the Soda Ash falls within the scope of the expression earth, stone, ores or other mineral substances in the said entry. Admittedly, the goods concerned herein are meant for grinding Soda Ash.

6. Without deciding the aforesaid it may not be possible to decide correctly the question of classification. The appeal is accordingly allowed. The impugned order is set aside and the matter is remitted to the Tribunal for a fresh disposal of the appeal in accordance with the law. No costs.