(2003) 09 P&H CK 0152

In the Punjab And Haryana At Chandigarh

Case No : Central Excise Case No. 35 of 2003

Commissioner of C. Ex.	APPELLANT
Vs	
Jagatsons Industries	RESPONDENT

Date of Decision : 15-09-2003

Acts Referred:
Central Excises and Salt Act, 1944 — Section 35H(1)

Citation : (2004) 114 ECR 176 : (2004) 166 ELT 441

Hon'ble Judges : V.M. Jain, J;N.K. Sodhi, J

Bench : Division Bench

Advocate : M.S. Guglani, for the Appellant;

Final Decision : Dismissed

Judgement

N.K. Sodhi, J.—This order will dispose of three Central Excise Cases Nos. 35,36 and 37 of 2003 in which similar questions of fact arise. These are petitions filed by the Revenue u/s 35H(1) of the Central Excise Act, 1944 for a mandamus directing the Customs, Excise and Gold (Control) Appellate Tribunal, New Delhi to prepare the statement of the case and refer to this Court the question of law which according to the department arises from the order of the Tribunal dated 15-2-2002. The assessee is purchasing stainless steel flats on payment of duty. These flats are cut into small pieces and then hot rolled into in the form of pattis/ pattas, which are then rolled into cold rolled patta/pattis. Thereafter circles are cut out of these cold rolled patta/pattis. The circles are used within the factory for the manufacture of utensils in addition to selling the same in the open market. The question that arose before the Central Excise authorities was whether the hot rolled strips undergo a process of manufacture, before they become cold rolled strips. The Tribunal found that the department is required to adduce evidence that the process of cold rolling of steel strips from hot rolled strips amount to ''manufacture'' of a new excisable commodity. Since there was no evidence on the record the Tribunal accepted the appeal filed by the assessee and remanded the case back to the adjudicating authority for recording a finding on the aforesaid issue. The Tribunal further found that no penalty was imposable because there was no suppression of facts on the part of the assessee.

2. We have perused the order of the Tribunal dated 15-2-2002 and find that no question of law arises therefrom. As already observed the case has been remanded for recording a fresh finding on the issue referred to by the Tribunal in its order. In this view of the matter, we find no merit in these Central Excise Cases and the same stand dismissed.