(2005) 03 MAD CK 0066

In the Madras High Court

Case No : Reference Case Petition No. 48 of 2002

Commissioner of Central Excise — APPELLANT

Vs

Customs, Excise and Gold (Control) Appellate Tribunal, (South Zonal Bench) and Sulochana Cotton Spinning Mills (P) Ltd. — RESPONDENT

Date of Decision : 10-03-2005

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

Citation : (2006) 203 ELT 20

Hon'ble Judges : Markandey Katju, C.J;Prabha Sridevan, J

Bench : Division Bench

Advocate : K. Veeraraghavan, ACGSC, for the Appellant; K. Jayachandran, for S. Kesavan, for the Respondent

Final Decision : Dismissed

Judgement

Markandey Katju, C.J.—Heard the learned counsel for the parties. The question sought to be raised u/s 35H of the Central Excise Act is as follows:-

"Whether the Hon''ble CEGAT is correct in holding that resultant product is not cotton carded or combed but blended cotton when note 2(A) to section XI of the Central Excise Tariff Act, 1985 clearly states that a mixture of two or more textile materials are to be classified as if consisting wholly of that one textile material which predominates by weight over any other single textile material."

2. Learned counsel for the assessee has rightly pointed out that this question relates to classification and hence u/s 35L of the Central Excise Act an appeal lies only to the Supreme Court and not to the High Court. We agree with the said submission and hence we dismiss this application.

