(2016) 04 SC CK 0130

In the Supreme Court Of India

Case No : Civil Appeal No. 4326 of 2008

Commissioner of Central Excise, Chennai-I — APPELLANT

Vs

SRF Ltd. — RESPONDENT

Date of Decision : 11-04-2016

Acts Referred:
Central Excises and Salt Act, 1944 — Section 4

Citation : (2016) 335 ELT 195

Hon'ble Judges : A.K. Sikri and Rohinton Fali Nariman, JJ.

Bench : Division Bench

Advocate : S/Shri A.K. Panda, Senior Advocate, Ms. Sushma Manchanda, Ms. Shweta Garg and B. Krishna Prasad, Advocates, for the Appellant; S/Shri V. Lakshmi Kumaran, L. Charnya, Anandh K. and M.P. Devanath, Advocates, for the Respondent

Final Decision : Dismissed

Judgement

1. The respondent, namely, M/s. SRF Limited, Manali Chennai is inter alia engaged in the manufacture of Filament Yarn of various deniers meant for use in the manufacture of tyre Cord Fabrics except 210 denier. The goods are exigible to Excise duty. While clearing the goods the respondent has been declaring the value thereof but in that the cost of packing material was not included. The department herein issued show cause notice to the respondent as to why the cost of packing material be not included and passed order confirming the demand raised in the show cause notice treating the cost of packing material as the component of transaction valuation under Section 4 of the Central Excise. The order of the adjudicating authority was challenged by the respondent assessee by filing an appeal before the Commissioner. Though, initially the matter was remanded back, the adjudicating authority, however, reiterated its earlier view whereupon the respondent filed the appeal to the Commissioner (Appeals) once again. This time the Commissioner (Appeals) allowed the appeal of the respondent vide order dated 21-11-2007 and the order has been upheld by the CESTAT also by its order dated 28-3-2008 dismissing the appeal of the

appellant.

2. The finding to the effect that the packing material which was used was durable and returnable by the buyer has come on record. On the basis of this finding the decision has been arrived at, which is the correct view in law. For this purpose, the Tribunal also relied upon the judgment of this Court in K. Radha Krishnaiah v. Inspector of Central Excise and Others, 1987 (27) E.L.T. 598, Mahalakshmi Glass Works (P) Ltd. v. Collector of Central Excise, 1988 (36) E.L.T. 727 and Triveni Glass Ltd. v. Union of India and Ors. - (2005) 3 SCC 484 = 2005 (181) E.L.T. 289 (S.C.).

3. In view of the above, we do not find any merit in the appeal which is, accordingly, dismissed.

