(2015) 04 SC CK 0032

In the Supreme Court Of India

Case No : Civil Appeal No. 5227 of 2004.

Commissioner of Central Excise, Indore - Appellant @HASH S.K. Industries

Date of Decision : 13-04-2015

Acts Referred:

Citation : (2015) 319 ELT 372 : (2015) 14 SCC 733

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

Bench : Division Bench

Advocate : S/Shri Arijit Prasad, Ms. Sadhana Sandhu, Ms. Kritika S. and B.K. Krishna Prasad, Advocates, for the Appellants; S/Shri A. Hidayattulah, Prem Ranjan Kumar, Awanish Sinha and Himanshu Shekhar, Advocates, for the Respondents

Final Decision : Allowed

Judgement

1. Respondents herein are engaged in the manufacture of Milk-n-Nut besides other products. It has been claiming the classification of the aforesaid product under Chapter Heading No. 2001.10 as preparation of vegetable, fruits, nuts and parts of plants. It is a matter of common knowledge that those products falling under Chapter Heading 2001.10 attract nil rate of Excise duty. On this perception that the aforesaid product should be treated as "sugar confectionery" and be classified under Chapter Heading 1704.90, show cause notice was issued to the respondents.

2. However, after eliciting the reply of the respondents and examining the matter at length, the Assistant Commissioner came to the conclusion that the product was preparation of vegetables, fruits, nuts and parts of plants and therefore, rightly classified under Chapter Heading 2001.10 and cannot be treated as sugar confectionery. He thus, dropped the proceedings by passing the final order dated 18-12-2001. The Department went in appeal. The Commissioner (Appeal) also upheld the orders. Same is the view taken by the Tribunal as well. Thus all the three authorities below have arrived at finding of fact that the product in question is vegetable preparation and is not sugar confectionery. These are

finding of facts.

3. We have gone through the orders of the authorities below and find no reason to interfere with this appeal. It is accordingly dismissed.