(2018) 04 SC CK 0144

In the Supreme Court Of India

Case No : Civil Appeal No(S). 10258, 10296 Of 2011, 6925, 6926 Of 2012, 16918, 16919 Of 2017, 4329, 4338 Of 2018

Commissioner Of Customs Etc. APPELLANT

Vs

M/S. Variety Lumbers Pvt.Ltd.Etc. Etc. RESPONDENT

Date of Decision : 24-04-2018

Acts Referred:
Customs Tariff Act, 1975 — Section 3(5)

Citation : 2018 (16) SCC 806

Hon'ble Judges : Ranjan Gogoi, J;R. Banumathi, J

Bench : Division Bench

Advocate : Rupesh Kumar, Aruna Gupta, Binu Tamta, B. Krishna Prasad, V. Lakshmikumaran, Dhruv Matta, Saumya Dubey, Aditya Bhattacharya, Victor Das, Apeksha Mehta, Punit Dutt Tyagi, Dr. Ashok Saraf, Kaushik Choudhury, Pritam Baruah

Final Decision : Dismissed

Judgement

CIVIL APPEAL NO(S).10258-10296 OF 2011

1. We have heard the learned counsels for appellant-Revenue. The issue turns on an interpretation of the notification dated 14.09.2007 which contemplates refund of additional duty of customs paid by the importer of goods under Section 3(5) of the Customs Tariff Act, 1975. The notification in the main part contemplates that the import must be for the purpose of subsequent sale and is inter alia subject to the condition that in the invoice issued in respect of the goods sold (said goods) it is mentioned that credit of the additional duty of customs levied under sub-Section (5) of Section 3 of the Customs Tariff Act, 1975 is not admissible.

2. The learned counsel for the appellant-Revenue has sought to dislodge the view taken by the Customs, Excise and Service Tax Appellate Tribunal and the High Court by contending that the subsequent sale must be in the same form in which the goods were received on import. The contention advanced on behalf of the appellant-Revenue is not supported by a plain reading of the exemption

notification which even if construed in the strictest terms does not permit such a view to be taken. That apart, the materials on record clearly shows that for purpose of transit of logs, the same necessarily had be reduced in size due to conditions imposed by the State for transport/ movement of timber. The said fact itself would belie the stand of the Revenue. We, therefore, take the view that a mere conversion of imported logs in the Sawn Timber without loss of identity of the original product would not deprive the importer of the benefit of the exemption notification.

3. The appeals of the Revenue, therefore, are dismissed. The orders of the Tribunal and the High Court are affirmed.

4. Bank guarantees deposited by the respondent(s), be returned to them along with interest thereon, if any.

Civil Appeal Nos.6925-6926/2012, 16918/2017, 16919/2017 and C.A. @ Diary No(s). 1586/2018

1. Delay condoned.

2. Leave granted.

3. In view of the order passed in Civil Appeal Nos.10258-10296 of 2011, the present appeals are dismissed in same terms.

4. Bank guarantees deposited by the respondent(s), be returned to them along with interest thereon, if any.

