
(2016) 05 SC CK 0120

In the Supreme Court Of India

Case No : Civil Appeal No (s). 3327 Of 2007

Commnr. Of Customs (Import), Mumbai

APPELLANT

Vs

Dilip Kumar And Ors

RESPONDENT

Date of Decision : 02-05-2016

Acts Referred:

Citation : (2018) 9 SCC 38

Hon'ble Judges : Ranjan Gogoi, J;Arun Mishra, J;Prafulla C. Pant, J

Bench : Full Bench

Advocate : Yashank Adhyaru, Sanjai Kumar Pathak, Binu Tamta, Arpit Rai, Nikita Shrivastava, B. Krishna Prasad, Somnath Shukla, Udit Jain, Praveen Kumar

Judgement

The issue in the present case is whether Vitamin E-50 is classifiable under Chapter 2309.00 of the Customs Tariff Act, 1975, as "Prawn Feed" and therefore eligible for the benefit of partial exemption from duty under Notification No.20/99 dated 28.02.1999. In the above notification the description of the exempted goods is "Prawn Feed".

We have perused the order dated 08.10.2015 referring the question arising to a larger Bench.

In 'Sun Export Corporation, Bombay vs. Collector of Customs, Bombay and Another'(1997) 6 SCC 564, the exemption notification dealt with 'animal feed'.

By an amendment, 'animal feed supplements' and 'animal concentrates' were included. It was held in Sun's case (supra) that the amendment was clarificatory and hence retrospective meaning thereby 'animal feed always included animal feed supplements'. On the strength of the said judgment, it has been contended on behalf of the assessee that "prawn feed" covered by the exemption notification No.20/99 must be understood to include 'prawn feed supplements' which is what the Vitamin E-50 involved in the present case is.

In paragraph 13 of the Order of this Court in Sun's case, views have been

expressed with regard to the interpretation of an exemption notification to support the conclusion reached. The same may require a reconsideration.

That apart, in the referral order it has been noticed that Sun's case (supra) has been distinguished in 'Collector of Central Excise, Guntur vs. Surendra Cotton Oil Mills & Fert. Co.' 2001 (127) ELT 3 (SC). The basis on which the said distinction has been drawn needs to be further pursued.

Having considered the matter at some length, we are of the tentative view, that the opinion expressed in Sun's case (supra) may require a reconsideration. Being a co-ordinate Bench, we believe we ought not to proceed any further in the matter. Hence we direct the Registry to lay the papers before the Hon'ble the Chief Justice of India for appropriate orders.