**(1998) 04 SC CK 0125**

**In the Supreme Court Of India**

**Case No :** Civil Appeal No. 167 of 1997

Formica India Division Ltd. APPELLANT

Vs

Collector of Central Excise RESPONDENT

**Date of Decision :** 01-04-1998

**Acts Referred:**

**Citation :** (1998) 62 ECC 265 : (1998) 79 ECR 225 : (1998) 101 ELT 3 : (1998) 7 JT 204 : (1998) 6 SCC 189

**Hon'ble Judges :** S. Saghir Ahmad, J;S. C. Agrawal, J

**Bench :** Division Bench

**Final Decision :** Allowed

## Judgement

1. The appellant was manufacturing laminates and for that purpose, it purchased duty-paid glass fabrics from various manufacturers. The appellant classified the product namely, Pre-preg 'G', as chargeable to excise duty under Tariff Item 68 in the erstwhile Central Excise Tariff under the Schedule to the Central Excise Act. The said classification was initially approved by the Assistant Collector of Central Excise but subsequently a show-cause notice was issued whereby it was proposed to classify the treated glass fabric under Tariff Item 22-F. The appellant submitted its reply to the said show-cause notice but the Assistant Collector passed an order classifying the product under Tariff Item 22-F(4). The appeal filed by the appellant against the said order of the Assistant Collector was allowed by the Collector of Central Excise (Appeals) who held that the glass fabrics alone could be classified under Tariff Item 22-F(4) and treated glass fabric could not be classified under the said item. On further appeal the Central Excise & Gold (Control) Appellate Tribunal by the impugned judgment dated 21-6-1996, has reversed the said order of the Collector (Appeals) and has held that the treated glass fabric produced by the appellant was classifiable under Tariff Item 22-F(4). Feeling aggrieved by the said decision of the Tribunal, the appellant has filed the present appeal.

2. Shri Laxmikumaran, the learned counsel appearing for the appellant, has

invited our attention to the decision of this Court in Mahindra Engineering and Chemical Products Ltd. Vs. Union of India and others, wherein this Court, while dealing with sub-item (4) of Item 22-F of the erstwhile Central Excise Tariff, has held that the said item only covers glass fabrics manufactured out of the fabric/ yarn and would not cover any product of the fabric. In view of the said decision, the impugned judgment of the Tribunal cannot be upheld because here the appellant was purchasing glass fabric from the market and by treating the same with resin, the product Pre-preg 'G' was being manufactured. The appeal is, therefore, allowed accordingly, the impugned judgment of the Tribunal is set aside and the judgment of the Collector of Central Excise (Appeals) is restored. No order as to costs.

 