(1995) 04 SC CK 0013

In the Supreme Court Of India

Case No : Civil Appeals Nos. 2979 And 1909 Of 1987

Hindustan Platinum Pvt. Ltd. APPELLANT

Vs

Collector of Central Excise RESPONDENT

Date of Decision : 05-04-1995

Acts Referred:

Citation : (1995) 77 ELT 276 : (1996) 9 SCC 400

Hon'ble Judges : S. P. Bharucha, J;K. S. Paripoornan, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

1. Tariff Item 24 as it stood at the relevant point of time prescribed the excise duty at 7 paise per 10 gms. of silver. The appellants had filed a classification list in regard to articles of silver, namely, (a) pure silver contacts, (b) pure silver wires, rods, (c) pure silver foils, sheets, strips, anodes, (d) silver alloy contacts containing more than 50% of silver known and sold as articles of silver such as silver cadmium, silver cadmium oxide, silver nickel, silver copper, silver palladium, etc. and (e) bimetal contacts: contact material like silver, gold, platinum and group metals or alloys thereof bonded on non-precious metals like copper, steel, brass, nickel, mortal, phosphor bronze, beryllium copper etc. having more than 50% silver contents. In the remark column of the classification list it was mentioned that articles of silver falling under Tariff Item 24 were exempted from the whole of the duty of excise leviable thereon by virtue of Notification No. 24/65, dated 28th February, 1965. The short question which the authorities below were required to consider was whether the term 'silver' "used in the said entry should be confined to ingots which would result in the appellants not getting the benefit of the exemption notification in respect of the various items of silver manufactured by them. The Tribunal took the view that the entry contemplates only the metal and not any other article made out of silver. It rejected the appellant's contention that the term 'silver' includes silver in all forms and not merely silver as a metal pure and simple.

2. In Civil Appeal No. 1.909/87 the technical member observed that if bimetal meant only ingots, it was difficult to understand how it could be assessed under Tariff Item 24. He was, therefore, inclined to give a wider meaning to that expression but later proceeded to add " the items of choice must be the true items available for the purpose, that is to say, the assessment of goods, whether they are to be assessed as silver or as goods not elsewhere specified. My choice is silver because this heading is the most appropriate and complete for silver articles and wrought silver items; whereas goods not otherwise specified is only a poor second choice, if it is a choice at all." He then proceeded to say that the right decision would be to assess all articles of silver under Item 24. But since the Tribunal had already assessed them under Tariff Item 68 he accepted the same and rejected the appeal. The other member, however, reiterated the earlier view and held that the assessment had been properly made under Tariff item 68. We have heard learned Counsel for the Parties. we do not see any reason why the expression 'silver' in Tariff item 2.4 should be ,given a narrow meaning as has been clone by the Tribunal. We are, therefore, inclined to think that the expression 'silver' in Tariff Item 24 should be given a wider meaning so as to include all articles of silver in the sense in which those who are dealing with commodities in question generally understand them, in other words, if the articles in question are generally understood in the commercial world by those who deal in them as silver they would attract duty under Tariff Item 24 but if they are not so known by those dealing with the articles in question they would fall outside the broad spectrum of the expression 'Silver' in Tariff Item 24 and would then perhaps fall within the residuary clause unless attracted by any other specific Tariff Item.

3. In the above view of the matter, we think it proper to remit the matter to the Tribunal with a direction that the Tribunal may permit the parties to lead evidence to establish how the goods in question are known to those who deal in them. After permitting the parties to lead such evidence as they would consider relevant to establish how those who deal in such articles understand or know them, the Tribunal may dispose of the matter on the strength of the said evidence. Having regard to the passage of time we hope that the Tribunal will be able to accord priority to these matters. The appeals will stand disposed of accordingly with no order as to costs.

