
(1996) 11 SC CK 0021

In the Supreme Court Of India

Case No : Civil Appeal No. 2178 of 1986

Indian Organic Chemicals Ltd.

APPELLANT

Vs

Collector of Customs and Excise

RESPONDENT

Date of Decision : 05-11-1996

Acts Referred:

Central Excises and Salt Act, 1944 — Section 2

Citation : (1997) 68 ECR 767 : (1996) 88 ELT 644 : (1997) 11 SCC 532

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

Bench : Division Bench

Final Decision : Allowed

Judgement

1. We have heard learned Counsel for the appellant.
2. After some discussion, learned Counsel for the respondent fairly states that, having regard to what has been found by the Customs, Excise & Gold (Control) Appellate Tribunal in the judgment under appeal, he is unable to support the same.
3. We need not go into details. It is enough to say that the appellant manufactures polyester fibres and tops from duty paid waste. The same is covered by item 18 of the 1st Schedule of the Central Excises and Salt Act. The process of manufacture yields waste. It is the appellant's case that this waste was not liable to be charged to duty again since the input and the output were the identical waste. The Tribunal, having considered the process, has held "that there has been a process of manufacture though the original waste and the resultant fibre waste have almost identical physical and chemical properties." It has said, again, "It may thus be seen that though the physical and chemical characteristics of the original input waste and the resultant waste are the same, the latter is not the same thing as the former in the sense it is not part of the original waste which remained unreacted and did not go through the reaction of depolymerisation and repolymerisation. In our opinion, there is a definite process

of "manufacture" here within the meaning of Section 2(f) of the Act."

4. In our view, learned Counsel for the Revenue is right. Having regard to the fact that the Tribunal has itself held that the physical and chemical characteristics of the original input waste and the resultant waste are the same, it is difficult to see how the resultant waste can be said to have been manufactured for no commodity distinct or different from the original input is produced.

5. The appeal is, therefore, allowed and the judgment and order under appeal is set aside. There shall be no order as to costs.