

(1996) 02 SC CK 0051

In the Supreme Court Of India

Case No : CIVIL APPEAL NO. 1 OF 1989

Jay Engineering Works Ltd.

APPELLANT

Vs

Government of India and Others

RESPONDENT

Date of Decision : 07-02-1996

Acts Referred:

Citation : (1997) 90 ELT 19 : (1997) 10 SCC 597

Hon'ble Judges : S. P. Bharucha, J;B. N. Kirpal, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. This appeal relates to the factory of the appellant in Andhra Pradesh and raises the issue whether the value of regulators is liable to be included in the assessable value of fans manufactured by the appellant for the purposes of excise duty prior to 19th June, 1977. The identical issue, relating to fans manufactured by the appellant at its Agra factory, was before this Court in Civil Appeal No. 2716/84, which was decided on 1st May, 1984. There it was the Union of India which was the appellant and it was contended that the value of the regulators should be included in the assessable value of fans for the purpose of computation of excise duty but, at the hearing the learned Attorney General appearing for the appellants did not press the contention having regard to the fact that the law stood amended with effect from 19th June, 1977, by reason of which the value of regulators was specifically included in the assessable value. Having regard to the position then taken by the Union of India, this appeal is allowed and it is held that prior to 19th June, 1977, the value of regulators was not includible in the assessable value of fans for the purpose of computation of excise duty.

2. There shall be no order as to costs.

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3. The question involved here is the same as that involved in C.A. No. 479/82

but, the period being different, an appeal was filed by the appellants before the CEGAT. The appeal was dismissed on the ground that there was a delay of 38 days which was not satisfactorily explained. Having regard to what is set out in the order under appeal and having regard also to the merits, we think it proper to set aside the order under appeal. Ordinarily, we would have remanded the matter to CEGAT for being disposed of on merits, but, having regard to the position in law stated in the judgment in C.A. No. 479/82, we think that it is proper for us to allow the appeal before CEGAT.

4. Order on the appeal accordingly. No order as to costs.