(1996) 09 SC CK 0015

In the Supreme Court Of India

Case No : Civil Appeals Nos. 39-43 of 1984

Mahabir Jute Mills Ltd. — APPELLANT

Vs

Collector of Central Excise, Allahabad — RESPONDENT

Date of Decision : 11-09-1996

Acts Referred:
Industries (Development and Regulation) Act, 1951 — Section 9(1)

Citation : (1996) 87 ELT 337 : (1997) 10 SCC 439

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

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. These appeals are directed against the judgment and order of the Customs, Excise and Gold (Control) Appellate Tribunal. The appeal before the Tribunal was filed by the present appellants. Two issues were raised, namely:

(1) No cess could be levied on jute yarn which was captivity consumed in the same factory for the manufacture of jute Fabrics; and

(2) if cess were levied on jute yarn as well as on the jute fabrics (hessain or sacking) manufactured therefrom, the cumulative incidence of the duty, in the case of both hessain and sacking, would exceed 13 paise per cent of the value in breach of the powers granted u/s 9 of the Industries (Development and Regulation) Act.

2. It is fairly stated that the first issue is now covered against the appellants by the judgment of this Court in Barnagore Jute Factory Co. v. Inspector of Central Excise

3. In respect of the second issue, the argument before the Tribunal was rejected in the following words :

In any case there can be no doubt over the fact, and we can take judicial notice of it, that yarn can be and is sold in the market, and that it is clearly "goods" different from hessain or sacking. We do not find anything in Section 9(1) of the Industries (Development and Regulation) Act to the effect that the limit of 13 paise per cent of the value should be taken to refer to the cumulative incidence of the goods produced by a particular industry, even though the goods may be quite different and distinct from one another.

4. The same argument has been advanced before us. Having regard to the terms of Section 9(1) of the Industries (Development and Regulation) Act, 1951, we find the argument difficult to accept. By reason thereof, excise duty may be levied on goods manufactured or produced in industries specified in the Schedule thereto, provided that the rate thereof does not in any case exceed 13 paise per cent of the value of the goods. It is the duty on the goods produced which is relevant for the purpose. The duty levied on what has been used to make such goods is not at all relevant. The argument on. this basis, therefore, that the levy of the cess is illegal because the maximum limit provided by the section is transgressed cannot be accepted.

5. The appeals are dismissed. There shall be no order as to costs.

