

(2001) 08 DEL CK 0007
In the Delhi High Court
Case No : C.W. No. 3170/89

M/s. Britannia Industries Ltd.

APPELLANT

Vs

Union of India and another

RESPONDENT

Date of Decision : 06-08-2001

Acts Referred:

Citation : (2001) 08 DEL CK 0007

Hon'ble Judges : Mukul Mudgal, J

Bench : Single Bench

Advocate : Sandip Mittal, for the Appellant; Mr. U. Hazarika, for the Respondent

Final Decision : Allowed

Judgement

Mukul Mudgal, J.—Rule

2. With the consent of the parties, the matter is taken up today for hearing.

3. The learned counsel for the petitioner relies upon a judgment of the Hon''ble Supreme Court in Civil Appeal Nos. 7237-38 of 1997 titled as Britania Industries Ltd. Vs T.N. Pollution Control Board & Another dated 16th of February, 2000 which judgment dealt with the validity of a cess imposed under Water (Prevention & Control of Pollution) Cess Act, 1977 (hereinafter referred to as "the said Act") on the appellant/petitioner herein. The Hon''ble Supreme Court held that the petitioner herein, who was the appellant in that case while producing as a result of a series of processes, biscuits, bread and cakes, used inter-alia, wheat flour and milk powder and manufactured the same and the its industry did not process animal or vegetable products and consequently was not amendable to the cess under entry 15 of Schedule of the said Act i.e., "Processing of animals or vegetable products industry".

4. This writ petition challenges the Order of the Appellate Authority of Central Pollution Control Board dated 10.3.1989, passed in Appeal No. 12 of 1988 by which it was held the petitioner while manufacturing biscuits, processed

vegetable products and was liable to be covered under Entry 15 of the Schedule appended to the Water (Prevention & Control of Pollution) Cess Act, 1977. The question involved before the Hon''ble Supreme Court was the levy of the same cess under Entry 15 under similar circumstances.

5. Accordingly, I am of the view that the present writ petition is squarely covered by the judgment of the Hon''ble Supreme Court in CA.Nos.7237-38 of 1997. The writ petition is accordingly allowed. Consequently the Assessment Order dated 6.6.1988 (Annexure "A" at Pages 35-37 of the petition) and the Appellate Order dated 10.3.1989 (Annexure "B" at page 39-47) are set aside. There shall be no orders as to costs.

6. The writ petition is accordingly disposed of.