
(2002) 03 DEL CK 0012
In the Delhi High Court
Case No : CWP No. 947/81

Naraindas Brothers

APPELLANT

Vs

Union of India (UOI) and Another

RESPONDENT

Date of Decision : 01-03-2002

Acts Referred:

Citation : (2002) 82 ECC 37 : (2002) 143 ELT 52

Hon'ble Judges : S.B. Sinha, C.J;A.K. Sikri, J

Bench : Division Bench

Advocate : Enakshi Kulshreshtha, for the Appellant; Maninder Singh and Nishakant Pandey, for the Respondent

Final Decision : Dismissed

Judgement

A.K. Sikri, J.—Under the Customs Tariff Act, 1975 the petitioner was required to pay the customs duty on the importation of PBSY cotton seed oil at the rate of 60 per cent ad valorem and the additional duty. u/s 25 of the Customs Tariff Act, the Central Government has been given power to grant exemption from payment of duty if it is satisfied that it is necessary in the public interest so to do. In exercise of this power, the Central Government issued two notifications dated 1st April, 1980 and 24th October, 1980 granting total exemption from payment of custom duty and additional duty on edible oils imported into India by the National Dairy Development Board (for short "NDDB"). The petitioner has sought to challenge the aforesaid orders on the ground that granting of exemption to NDDB and not to the petitioner would be discriminatory and also violative of Article 19(1)(g) of the Constitution of India inasmuch as the commodity importer by the petitioner would be at a higher price than that of the NDDB which is not livable to pay any such duty.

2. The issue involved in this case has already been decided by the Division Bench of this court in case of M. Jehangir Bhatusha v. Union of India being CWP No. 1517/79 decided on 14th November, 1979.

3. The court in this case did not find favor with the contentions of the petitioners on both counts and held that neither grant of exemption in favor of public undertaking(STC) in that case was discriminatory nor was there any violation of Article 19(1)(g) of the Constitution of India. Relying upon the decision of the Supreme Court in the case of Shree Meenakshi Mills Ltd. Vs. Union of India (UOI), , the court held that a price control measure adopted by the Government cannot be deemed to be an unreasonable restriction on the rights of the petitioners guaranteed by Article 19(1)(g) of the Constitution only because it either reduces the profit margin of the petitioners or even results in some loss to the petitioners. The arguments of discrimination was repelled in the following words:

"That the classification between the Government or a Government Corporation like the STC, on the one hand, and the petitioners and other private persons, on the other hand, is reasonable is settled by a series of decisions ending in the seven-Judge Bench decision in Maganlal Chhaganlal (P) Ltd. Vs. Municipal Corporation of Greater Bombay and Others, . The object of the classification has also a rational connection with the distinction made between the STC and the petitioners. While the STC is under the control of the Government the petitioners are not. This is why the benefit of the reduction of duty is given to the STC alone and not to the petitioners. Moreover, while the cost of the import by the STC is known to the Government, the cost of the imports by the petitioners it is not so known to it. Lastly, the impact of the price of vanaspati through lowering of the import duty on the imports by the STC is secured in accordance with the guidelines laid down by Sub-section (2) of Section 25 of the Act. For these reasons the impugned orders are valid and they have not been shown to be contrary to Article 14 of the Constitution."

4. In the result this writ petition is dismissed. The petitioner is liable to pay the balance custom duty on the goods imported by it.

5. There shall be no order as to costs.