(1984) 02 DEL CK 0020

In the Delhi High Court

Case No : Civil Writ No. 2274 of 1982

Orient General Industries Ltd. APPELLANT

Vs

Union of India RESPONDENT

Date of Decision : 07-02-1984

Acts Referred:

Citation : (1986) 24 ELT 526

Hon'ble Judges : S.S. Chadha, J

Bench : Single Bench

Judgement

S.S. Chadha, J.—The issues raised in the present petition are identical to issues dealt with by a Division Bench of this Court in M/s. Jay Engineering Works Ltd. v. Union of India & Others, decided on October 20, 1980 reported in 1981 E.L.T. 284. The Division Bench has held that the Central Excise Tariff Item 33 of the 1st Schedule to the Central Excise and Salt Act, 1944 during the relevant period, regulators were not includible under the goods described as electric fans till June 18, 1977 when the said Tariff item was amended.

2. Miss Rekha Sharma, learned counsel for the Government points out that the question of inclusion of regulators in the electric fans for purposes of levy of excise duty was considered by the High Court of Andhra Pradesh in the case of Jay Engineering Works Ltd., Hyderabad v. Government of India & others 1982 E.L.T. 378 wherein it was held, since the regulator was irresponsible part of fan and was treated as such by I.S.I. specifications and in Trade parlance, Therefore its cost was includible in the assessable value u/s 4 of the said Act, even prior to this amendment of June 18, 1977, this taking a view contrary to the judgment of this Court. I am bound by the judgment of the Division Bench of this Court.

3. Accordingly C.W. 2274/82 is allowed. The impugned order dated July 13, 1979 is quashed. I direct the respondents to finalise the assessment for the relevant period after excluding the cost of regulators from the assessable value of the fans and thereafter refund the excess amount of excise duty collected and/or recovered from the petitioner within six months from today. On the facts and

circumstances of the case I make no order as to costs.

