(2002) 04 SC CK 0039

In the Supreme Court Of India

Case No : Civil Appeal No. 9363 of 1995 With Civil Appeal Nos. 9409 of 1995 and 9410 of 1995

Shervani Industrial Syndicate Ltd. APPELLANT

Vs

Collector of Central Excise RESPONDENT

Date of Decision : 16-04-2002

Acts Referred:
Central Excises and Salt Act, 1944 — Section 35L

Citation : (2002) 83 ECC 517 : (2002) 143 ELT 481

Hon'ble Judges : S. P. Bharucha, C.J;Shivaraj V. Patil, J;N. Santosh Hedge, J

Bench : Full Bench

Advocate : V. Lakshmikumaran, M.P. Devnath and V. Balachandran, for the Appellant; T.L.V. Iyer Jaideep Gupta and B. Krishna Prasad, for the Respondent

Final Decision : Allowed

Judgement

1. The question is whether the zinc flat forms that are produced by the appellants, who are battery manufacturers, for punching of callots therefrom are zinc sheets within the meaning of Tariff Entry 266(2).

2. It is the contention of the appellants that these flat forms are not marketable and, hence, not excisable goods. We find that, on an appreciation of the evidence on either side, the Tribunal, in the order under challenge, has taken a contrary view. It is not for us to re-assess the evidence; it would have been another thing if there was no evidence on behalf of the respondents.

3. Accordingly, the civil appeal is dismissed.

4. If the appellants are entitled in law now to claim profonna credit on the duty on zinc ingots, they may make an application accordingly and it shall be considered according to the law.

5. The bank guarantee given pursuant to the interim order of this court shall be kept alive for a period of eight weeks to enable the appellants to make payment

of the duty. If the duty amount is not paid within eight weeks, it shall be open to the respondents to enforce the bank guarantee.

6. No order as to costs.

