(1999) 08 MP CK 0030

In the Madhya Pradesh High Court

Case No : Miscellaneous Petition No. 102 of 1994

Shree Synthetics Ltd.	APPELLANT
Vs	
Union of India (UOI)	RESPONDENT

Date of Decision : 30-08-1999

Acts Referred:

Citation : (1999) 66 ECC 66 : (1999) 84 ECR 832 : (1999) 114 ELT 791

Hon'ble Judges : Bashir Ahmed Khan, J

Bench : Single Bench

Advocate : S.N. Kohali, for the Appellant; B.G. Neema, for the Respondent

Judgement

B.A. Khan, J.—Petitioner Company is manufacturing various types of Nylons and Polyester Yarn which is subjected to Excise Duty under the Central Excise Act.

2. It seems to have claimed credit under ''Modvat Scheme'' for one of its claimed products born out of the manufacturing process namely Methanol, on the plea that it was a final product and fell within the ambit of Notification No. 177/86.

3. Revenue, however, rejected the plea and Superintendent, Central Excise, Ujjain, issued show cause notices, dated 15-2-1991, 25-4-1991, 30-5-1991, 20-6-1991, 23-8-1991 and 18-11-1991 (Annexures C/l to C/6) to the Company to show cause for availment of allegedly wrong credit under the ''Modvat Scheme''.

4. The Company has challenged these show cause notices claiming that Methanol was final product like the yarn and that it was entitled to take credit for this under the Scheme.

5. It is admitted position that Revenue had not passed any final order in the matter but had only issued show cause notices asking the company to explain the position. Instead of doing so before the appropriate forum it had chosen to file this petition forestalling all further proceedings under the Excise Act. This petition ought not to have been entertained being premature and directed only

against show cause notice which did not tantamount to any final action. What is worse the petition has remained pending for as good as 6 years depriving Revenue Forums from adjudication of the dispute raised by the Company.

6. Challenge thrown to show cause notices is wholly premature at this stage and instead of forestalling proceedings before Revenue Forums, the Company should have replied the show cause notice and persuaded the Revenue Authorities to appreciate its claim. Having failed to do so it becomes difficult to entertain this. It is accordingly dismissed. This should leave the petitioner Company free to file objections to the impugned show cause notices within a month and on so doing the Assistant Collector concerned shall examine the pleas taken and after hearing the Assessee pass appropriate orders in this matter.