(1999) 11 SC CK 0001

In the Supreme Court Of India

Case No : Civil Appeal No. 2904 Of 1992

The Assistant Collector of Customs for Appraisement, Group-II and Others — APPELLANT

Vs

Associated Forest Products (P) Ltd. and Another — RESPONDENT

Date of Decision : 03-11-1999

Acts Referred:

Customs Act, 1962 — Section 31(1)

Citation : AIR 2000 SC 3627 : (2000) 67 ECC 599 : (2000) 115 ELT 37 : (2000) 9 SCC 258

Hon'ble Judges : N. Santosh Hedge, J;B. N. Kirpal, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. The question involved is what rate of duty was to be charged on the goods imported by the respondent. It is on 3rd October, 1986, when the concessional rate of duty at the rate of 10 per cent was applicable, that the customs authorities on the import manifest filed had granted entry inwards. On that date, the bill of entry had been filed. The bill of entry was subsequently, at the instance of the customs authorities, amended by the steamer agent on 6th October, 1986 by supplementary manifest. On 6th October, 1986 by separate notifications the duty of Customs stood increased to 60 per cent and auxiliary duty to 40 per cent. On 7th October, 1986 the bill of entry was charged on the basis of 10 per cent basic Customs duty.

2. It seems that enhanced duty was paid by the importer and thereafter application for refund was filed. The contention of the respondent was that as the bill of entry was filed on 3rd October, 1986 and entry inwards was granted to the vessel u/s 31(1) of the Customs Act, therefore that was the date which was relevant for the purposes of determining the rate of Customs duty and auxiliary duty which was payable.

3. In our opinion, the High Court was right in coming to the conclusion that as

entry inwards was granted to the vessel on the basis of the bill of entry dated 3rd October, 1986, it is the duty chargeable on that day which could be realised and the amendment to the bill of entry would, under these circumstances, relate back to the original date, namely, 3rd October, 1986.

4. Learned Counsel for the appellants submits that refund cannot be allowed because that will amount to unjust enrichment. That is the question which will be considered in the proceedings for refund and the refund application will have to be decided in the light of the judgment of this Court in Mafatlal Industries Ltd. and Others Vs. Union of India (UOI) and Others,

5. The appeal is disposed of in the aforesaid terms.

