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(1995) 03 SC CK 0134

In the Supreme Court Of India

Case No : Civil Appeal No. 753 of 1988

Union of India (UOI) and Others APPELLANT

Vs

J.M.A. Industries RESPONDENT

Date of Decision : 28-03-1995

Acts Referred:

Citation : (1995) 58 DLT 640 : (1995) 50 ECC 2 : (1995) 77 ELT 278 : (1995) 2 SCALE 582 : (1995) 3 SCC 389 : (1995) 3 SCR 19

Hon'ble Judges : S. B. Majmudar, J;R. M. Sahai, J

Bench : Division Bench

Advocate : A.K. Ganguli, P. Narasimhan and V.K. Verma, for the Appellant; M.G. Ramachandran and Pramod Goyal, for the Respondent

Final Decision : dismissed

Judgement

1. How should the expression 'Electric Lighting Fittings' in Tariff Item 61 be interpreted is the short question that arises for consideration in this appeal directed against the judgment and order of the Delhi High Court allowing the writ petition filed under Article 226 of the Constitution of India and quashing the notice issued to the appellant for classifying the electric switches, dippers and bulb holders manufactured by it for cars under Tariff Item 61.

2. The respondent is engaged in the business of manufacturing various parts and accessories for motor vehicles. It filed a writ petition in the High Court challenging the notice issued by the Department for levying duty on the item manufactured by the respondent under Tariff Item 61. The High Court after considering the matter held that in common parlance the goods manufactured by the respondent cannot be construed to be covered under Tariff Item, 61 as the respondent was a manufacturer solely of motor vehicle parts.

3. Tariff Item 34A in Schedule I to the Central Excises & Salt Act, 1944 has been amended from time to time. The rate of the duty levied under the item on parts and accessories not elsewhere specified of motor vehicles and tractors including

trailers was 20% ad valorem. This notification was amended in 1979. The amendment specified various goods to be parts and accessories of motor vehicles. The earlier entry read as under:

Parts and accessories not elsewhere specified of motor vehicles and tractors including trailers.

4. The amended entry since 1979 reads as under:

Parts and accessories of motor vehicles and tractors including trailors, the following, namely.

The result of the amendment and the addition of the words 'following namely", was that apart from the goods specified in Item No. 34A which were 15 in number, the other items stood excluded from levy of excise duty. The entry mentions 15 items, but it does not mention switches, dipper switches or bulb holders. Therefore, all those articles,including the one mentioned above if they are part of parts and accessories of motor vehicles, then they were not liable to pay any duty on it.

Tariff Item 61 reads as under:

The respondent manufactured light switches, dipper switches and bulb holders exclusively for use in motor vehicles. The classification list of the respondent was approved by the Department. It was paying duty under Item No. 68. In 1981, however, when Tariff Item No. 61 was introduced, the respondent was directed to obtain the requisite licence for the manufacture of the said goods under the aforesaid item. The question, therefore, is whether the goods manufactured by the respondent for use in motor vehicles can be said to be covered in Tariff Item 61. The Item has been extracted above. The expression 'electric lighting fittings, is normally understood in context with the household. The dippers and switches manufactured for use in case are not understood either in the trade circle or in common parlance as electric lighting fittings. It is true that the words 'switches, plugs and sockets' have been widened by use of the expression 'all kinds', but the words used have to take colour from the genesis of the entry, that is, electric lighting fittings. Since the main or the principal entry deals with electric lighting fittings in the households, the switches and dippers manufactured by the respondent for exclusive use in motor vehicles cannot be said to be covered in the aforesaid entry. The view taken by the High Court, therefore, appears to be well founded in law.

5. In the result, this appeal fails and is dismissed. But there shall be no order as to costs.

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