(1999) 12 SC CK 0061

In the Supreme Court Of India

Case No : Civil Appeal No. 7749 Of 1995

Vikrant Tyres Ltd. APPELLANT

Vs

Collector of Central Excise, Madras RESPONDENT

Date of Decision : 01-12-1999

Acts Referred:

Citation : AIR 2000 SC 351 : (1999) AIRSCW 4480 : (2000) 67 ECC 226 : (2000) 88 ECR 34 : (2000) 115 ELT 26 : (1999) 9 JT 436 : (1999) 7 SCALE 342 : (2000) 1 SCC 241 : (2000) 1 Supreme 620

Hon'ble Judges : S. P. Bharucha, J;R.C. Lahoti, J;N. Santosh Hegde, J

Bench : Full Bench

Final Decision : Dismissed

Judgement

S.P. Bharucha, J.—The appellants are manufacturers of tyres. They imported radial tyres in 1984 for the purposes of testing them prior to commencing manufacture thereof. For the purposes of the payment of countervailing duty thereon, they claimed the benefit of excise duty exemption notification No. 20/84 dated 1st March, 1984. The same was denied to them upon the basis that the tyres that they had imported were designed for on and off road application. In the Tribunal's view, the said notification did not provide for concessional rate of duty in respect of, in its words, "tyres for vehicles or equipments designed for use off the road"x. It was said that the said notification did not apply to tyres specifically designed for on/off road application. The order of the Tribunal is under appeal.

2. We will proceed upon the basis that these were tyres which were intended for on and off road application, though it is disputed on behalf of the appellants. Their case is that the tyres were for on road use.

3. Tyres fall under Heading 16 of the Central Excise Tariff. Sub-heading (I) thereof refers to tyres for motor vehicles and reads thus:

(1) Tyres for motor vehicles--

(a) Tyres for two-wheeled motor vehicles, namely, scooters, motor cycles, mopeds and auto cycles--

(i) tyres Fifty rupees per tyre.

(ii) tyres Twenty-five per cent ad valorem.

(b) Others--

(i) tyres One thousand and five hundred rupees per tyre.

4. Sub-heading (II) deals with tyres for cycles and cycle rickshaws. Sub-heading (III) deals with tyres for vehicles or equipment designed for use off the road. The first Explanation to Heading 16 says that the expression 'motor vehicles" means all mechanically propelled vehicles, other than tractors, designed for use upon roads. The said notification grants exemption to, inter alia, tyres for motor vehicles other than tyres for auto-rickshaws and saloon cars of the size therein stated, if they fall within Sub-heading (I)(b)(i) of Heading 16. It is within this subheading that the appellants claim the tyres they imported fall.

5. The question really is whether the tyres which were imported fall within Sub-heading (I) of Item 16, as the appellants contend, or within Sub-heading (III), as the respondents do. Sub-heading (III) deals with tyres for vehicles or equipment designed for use off the road. It is nobody's case that the tyres that were imported were specific for vehicles or equipment designed for use off the road. What is relied upon on behalf of the respondents is, at best, a statement that these tyres are capable of use on the road and off the road. It is enough if the tyres are capable of use on the road and are fitted to a mechanically propelled vehicle, other than a tractor, designed for use upon the road. This is not in question. Clearly, then, the imported tyres fall within Sub-heading (I)(b)(i) of Item 16 and are entitled to the exemption given by the said notification.

6. The civil appeal is allowed and the order under appeal is set aside.

7. Refund, if any, shall be payable if admissible under the law. No order as to costs.

