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C.A.No. 1087-1088 OF 1999

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Item No.	Court No.	Section
107	03	III

S U P R E M E C O U R T O F I N D I A
Record of Proceedings

Civil Appeal Nos. 1087-1088 of 1999

Commissioner of Central Excise, Chennai Appellant (s)
vs.

M/s. M.R.F. Ltd. Respondent(s)

(with appln.(s) for stay and office report)

with Civil Appeal Nos. 1476-1495/1999 (with appln.(s) for stay and office report) and Civil Appeal Nos. 1676-1678/1999 (with appln.(s) for stay and office report)

Date:26/09/2001 This/These matter(s) was/were called on for hearing today.

CORAM:

HON'BLE MR. JUSTICE B.N. KIRPAL
HON'BLE MR. JUSTICE N. SANTOSH HEGDE
HON'BLE MR. JUSTICE P. VENKATARAMA REDDI

For the Appellant (s): Mr. S Ganesh, Sr. Adv.
Ms. Nisha Bagchi, Ms. Rekha Pandey and
Mr. B K Prasad, Adv.

For the Respondent(s): Mr. F S Nariman, Sr. Adv.
Mr. Joseph Vellapally, Sr. Adv.
Mr. K R Nambiar and Mr. Subhash Sharma, Adv.

Mr. P S Narasimha, Adv.
Mr. P Sridhar and Mr. V G Pragasam, Adv.

UPON hearing the counsel the Court made the following
ORDER

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Mr. S Ganesh started his arguments at 2.50 P.M. After about 10 minutes, Mr. F S Nariman made his submissions for some time. Thereafter, Mr. S Ganesh resumed his arguments and was on his legs when the Court rose for the day.

The matters remained part-heard.

(D.P. Walia)
Court Master

(S.L. Goyal)
Court Master

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ITEM No. 101 (P.H.) Court No. 3 Date: 27.9.2001@@
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Coram and Appearance : Same as on 26.9.2001@@
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C.A. Nos. 1494 & 1495/1999@@
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The appeals are dismissed.

C.A.Nos. 1087-1088/1999, 1476-1493/1999 and 1676-1678/1999@@
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The respondent is a company which manufactures tyres and the question involved relates to the classification of an intermediate product which goes into the manufacture of tyres.

At earlier points of time, disputes had arisen regarding classification of intermediary products relating to Falcon tyres (88 ELT 450), Vikrant tyres (90 ELT 178), Apollo tyres (108 ELT 247) and CEAT tyres (111 ELT 383). In all those cases, the classification was done of the intermediate product under Heading 59.06. In the present case, according to the appellant, the classification should have been under Heading 59.02 and not 59.06 as contended by the respondent.

There is merit in the contention of the counsel for the respondent that all the tyre manufacturers should be treated similarly in the matter of levy of excise duty; otherwise distortions are likely to arise. It is, therefore, important to ascertain whether in the aforesaid four cases which have been referred to, namely, those of Falcon, Vikrant, Apollo and CEAT tyres, at more than one intermediary stage prior to the manufacture of the tyres additional excise duty was sought to be levied or not. According to Mr. Nariman in all the aforesaid cases, his instructions are that after the tyre cord was purchased, in the process which was undertaken by the tyre

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manufacturers, it was only at one intermediary stage that duty was sought to be levied. He also says that the nature of goods involved are the same and in the present case also it is only at one intermediary stage that duty is sought to be levied. According to Mr. Nariman, whether it is at the stage of dipped tyre cord or at the second stage of rubberising, there should be no difference in the levy of excise duty between the present case and the aforesaid cases which have already been decided.

Mr. Ganesh wants to seek instructions as to whether the averment of the respondent is correct, namely, that it is only at one intermediary stage, whether in the first stage or in the second stage, in the manufacture of tyres that additional excise duty was sought to be levied.

To come up after two weeks.
Not to be treated as part-heard.

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(D.P. WALIA)
Court Master

(S.L. GOYAL)
Court Master

(Signed Order in C.A. Nos.1494 & 1495/1999 is placed
on the file)

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.1494 & 1495 OF 1999@@
CC

Commissioner of Central Excise ..Appellant(s)

vs.

M.R.F. Ltd. ..Respondent(s)

O R D E R@@
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Pursuant to the show cause notice which was issued,
the Commissioner by order No. 5 of 1997 dated 25th September,
1997 dropped the proceedings against the respondent and held
that the item in question was classifiable under Heading
59.06. The appeal filed against the same by the respondent
was withdrawn by it. This being so, there can be no occasion
for the appellant to file an appeal challenging here for the
first time the correctness of the order dated 25th September,
1997 of the Commissioner. These appeals are, accordingly,
dismissed.

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.....J.
(B.N. KIRPAL)

.....J.
(N. SANTOSH HEGDE)

.....J.
(P. VENKATARAMA REDDI)

New Delhi;
September 27, 2001.