

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 1999 OF 2000

COMNR. OF CENTRAL EXCISE, TRICHY

Appellant (s)

VERSUS

M/S. MADURA COATS LTD.

Respondent(s)

(With appln. for stay and permission to submit addl.documents )  
(With office report )

Date: 17/03/2005 This Appeal was called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE RUMA PAL  
HON'BLE MR. JUSTICE ARIJIT PASAYAT  
HON'BLE MR. JUSTICE C.K. THAKKER

For Appellant(s)

Mr. R.Mohan,ASG.  
Mr. R.Nedumaran,adv.  
Mr. P.Parmeswaran,Adv.  
Mr. S.Mehlwai,Adv.  
Mr. B. Krishna Prasad,Adv.

For Respondent(s)

Mr. U.A.Rana,Adv.  
Ms. K.Sumathi,Adv.  
Mr. M.Singhal,adv.  
Mr. S.Chatterjee,Adv.for  
M/S Gagrat & Co.,Adv.

UPON hearing counsel the Court made the following  
O R D E R

The appeal is dismissed without any order as  
to costs.

[SUMAN WADHWA]  
COURT MASTER

[MADHU SAXENA]  
COURT MASTER

Signed order is placed on the file.

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 1999 OF 2000

Commnr. Of Central Excise,  
Trichy .. Appellant

vs.

M/s. Madura Coats Ltd. .. Respondent

O R D E R

The period in question is 1st March 1994 to 24th April, 1994. The appellant during this period manufactured polyester/nylon/filament/yarn and cotton twisted yarn. On the allegation that the respondent had wrongly cleared goods without payment of duty by availing of Notification No. 26/94 read with Notification 79/94, a show cause notice was issued against the respondent as to why duty should not be demanded in accordance with the provisions of the Central Excise Act and penalty imposed under the Rules. The Departmental authorities confirmed the demand and the matter came up before the Tribunal. There it was contended by the respondent that there was no manufacture of the twisted yarn subsequent to the manufacture of the single ply. Reliance was placed on the decision of this Court in Commissioner of Central Excise, Jaipur vs. Banswara Syntex Ltd. 1996 (88) E.L.T. 645 = 1996 (11) SCC as well as the decision of this Court in Porritts & Spencer (ASIA) Ltd. vs. Collector of Central Excise, New Delhi reported in 1999 (106) E.L.T.18 = 1995 Supp.(3) SCC 219. The Tribunal accepted this. The appellant's only grievance is that since the issue has been raised for the first time before the Tribunal, the

matter should have been remanded back to the

-2-

Assistant Commissioner for the purpose of determining the factual basis of the respondent assessee's claim.

The Tribunal rejected this contention and following the decisions relied upon by the respondent, upheld its contentions and set aside the demand for duty and penalty.

The principle enunciated by the decisions in the two cases relied upon by the Tribunal is not disputed by learned counsel for the appellant. We are of the view that having regard to the fact that the show cause notice which was issued on the basis that the yarn in question was twisted yarn, there is no useful purpose would be served by remanding the matter back to the Departmental Authorities for considering whether the yarn in question is twisted or not. The appeal is dismissed without any order as to costs.

.....J.  
(RUMA PAL)

.....J.  
(ARIJIT PASAYAT)

.....J.  
(C.K.THAKKER)

New Delhi;  
March 17, 2005.