

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.4452-4453 OF 2001

COMMNR. OF CENTRAL EXCISE, CHANDIGARH
(s)

Appellant

VERSUS

M/S. REGAL INDUSTRIES LTD.
t(s)

Respondent

(with application for permission to place addl. documents on record and
with office report)

Date: 12/07/2006 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHAN

HON'BLE MR. JUSTICE MARKANDEY KATJU

For Appellant(s)

Mr. Gopal Subramaniam, ASG

Mr. Harish Chandra, Sr. Adv.

Mr. Rudreshwar Singh, Adv.

Mr. Raghenth Basant, Adv. for

Mr. P.Parmeswaran, Adv.

For Respondent(s)

Mr. Joseph Vellapally, Sr. Adv.

Mr. G.L. Rawal, Sr. Adv.

Mr. Rohit Choodhry, Adv. for

Ms. B.Vijayalakshmi Menon, Adv.

UPON hearing counsel the Court made the following

O R D E R

The Appeals are dismissed with no order as to costs.

(Parveen Kr. Chawla)

(Rajesh Dham)

Court Master

Court Master

[Signed Order is placed on the File]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 4452-4453 OF 2001

Commissioner of Central Excise, Chandigarh

Appellant(s)

Versus

M/s Regal Industries Ltd.

Respondent(s)

O R D E R

Issue involved in the present appeals is whether the respondent is

entitled to the benefit of exemption under exemption notification No.

115/75-CE dated 30th April, 1975.

Respondent-assessee, hereinafter referred to as the respondent,

manufactures Rubberised Coir Mattresses and Cushions and has not paid

the excise duty claiming exemption under the aforesaid notification.

Department issued two show cause notices dated 29.1.1996 and 12.6.1996.

The basis of the said show cause notices was that the department viewed

that the product manufactured by the respondent is not entitled to the

benefit of the notification dated 30.4.1975, since the benefit of the above

notification is available to the coir product/industry and the product

manufactured by the respondent is rubber based or in other words

respondent is a rubberised based industry. Respondent contested the

notices and filed its reply.

The assessing authority passed the order-in-original on 23.2.1999

rejecting the claim put forward by the respondent and confirmed the

demand . It was held that the respondent was not entitled to the benefit of

the exemption notification. Penalty was also imposed on the respondent.

Aggrieved against the order passed by the assessing authority,

respondent filed an appeal before the Customs, Excise & Gold (Control)

Appellate Tribunal, New Delhi (for short 'the Tribunal'). Tribunal, by its

impugned order, has accepted the appeal; set aside the order in original

and held that the respondent is entitled to the benefit of the exemption

notification. Consequently, the demand against the respondent was

dropped.

It is not disputed before us that the coir industry is one of the

industry which has been exempted under the above-said notification from

the levy of excise duty. A doubt had been raised before the Coir Board as

to whether factories manufacturing rubberised coir mattresses could be

regarded as factories covered by the coir industry for the purposes of benefit of the exemption notification. Accordingly, a clarification was issued by the Coir Board, Government of India, Cochin confirming that rubberised coir industry should be treated as coir industry for the purpose of exemption of excise duty and that such rubberised coir mattresses would be eligible for exemption in terms of notification No. 115/75-CE dated 30.04.1975. The relevant portion of the clarification is as follows:

"...The matter has been considered in the Board's office. Board observes that Section 3(d) of the Coir Industry Act, 1953 defines coir products as "Mats, mattings and carpets, ropes and other articles manufactured wholly or partly from coir or coir yarn". In terms of this definition rubberised coir mattresses of the type mentioned above would be covered as coir products. A specific reference was made to the Coir Board, Government of India, Cochin who have confirmed that rubberised coir industry should be treated as coir industry for the purpose of excise duty exemption in this case. Board accordingly, holds that such rubberised coir mattresses would be eligible for exemption in terms of notification No. 115/75-CE dated 30.04.1975, as amended."

Counsel for the appellant strenuously contended that respondent is a rubber based industry and not the coir based industry. Further he has argued that the mattresses produced by the respondent contained less than 50% of the coir.

We do not find any merit in these submissions. To run a coir or rubber industry, a licence has to be taken from Coir Board or Rubber Board, as the case may be.

As the appellant wanted to run a coir industry it took licence from the Coir Board. It is running the industry on the basis of that licence. It has not taken a licence from the Rubber Board to run a rubber industry though it has taken a

"Licence to acquire rubber" from the Rubber Board. Since it is functioning

under a licence granted by the coir board it would be deemed to be a coir

industry. As per chemical analysis report of the seized material the final product

contained 55.5% of the coir in the mattresses produced by the respondent

submission made by the learned counsel for the appellant that the mattresses

produced by the respondent contained less than 50% of coir is without any basis.

The same point was involved in Civil Appeal No.....of 1999

(D.No. 8812 of 1999) titled Collector of Central Excise, Meerut vs. Coir

Cushion P. Ltd. . This Court on 24.9.1999 while condoning the delay has

dismissed the appeal filed by the department.

Again the same question arose for consideration before this Court in

Civil Appeal No. 2224 of 2000 titled Commissioner of Central Excise, Meerut

vs. Hindustan Coir Products Ltd. Following the decision in the case of Coir

Cushion P. Ltd., the appeal was dismissed. Respondent has rightly been held

entitled to avail of the exemption notification. There is no illegality or infirmity

in the findings recorded by the Tribunal.

Accordingly, in view of the clarification issued by the Coir Board and

the orders passed by this Court in the cases of Coir Cushion P. Ltd.

and Hindustan Coir Products Ltd., we do not find any merit in these

appeals and dismiss the same with no order as to costs.

.....J.

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(ASHOK BHAN)

New Delhi;
.....J.
July 12, 2006.

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(MARKANDEY KATJU)