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C.A.No. 2535 OF 1998
ITEM No.113

Court No. 5

SECTION III

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No. 2535 of 1998

DIVN. FOREST OFFICER, RANNI, KERALA Appellant (s)

VERSUS

COLLECTOR OF CENT. EXCISE & CUSTOMS Respondent (s)

(With office report)

Date : 13/01/2004 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.N.VARIAVA

HON'BLE MR. JUSTICE H.K.SEMA

For Appellant (s) Mr. John Mathew, Adv.
Mr. G. Prakash, Adv.

For Respondent (s) Mr. K. Swami, Adv.
Mr. B. Krishna Prasad, Adv.

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

Heard parties for fifteen minutes.

The appeal stands dismissed in terms of the signed order. There will be no order as to costs.

(K.K. Chawla)
Court Master

(Prem Parkash)
Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.2535 OF 1998

DIVN. FOREST OFFICER, RANNI, KERALA APPELLANT (s)

VERSUS

COLLECTOR OF CENT. EXCISE & CUSTOMS RESPONDENT (s)

O R D E R

This appeal is against an order dated 5th December, 1997 passed by the Customs, Excise & Gold

(Control) Appellate Tribunal. The question raised is whether the Appellants are liable to pay excise duty in respect of sleepers supplied by them to the railways.

It was submitted that the Appellants were not manufacturing any sleepers but were only supplying timbers to the railways. This submission is contrary to the admitted position. In reply to the show cause notice sent on 10th November, 1988, the Appellants admitted that sleepers were being manufactured by them. In the reply it was only contended that there was no commercial activity in such manufacturing. Also show cause notices had been issued to the Appellants for earlier periods also. Even at that stage it had been admitted that the Appellants were manufacturing sleepers. Duty was levied for the earlier periods. That duty has been paid by the Appellants. This also shows that it is an admitted position that sleepers were being manufactured by the Appellants.

It was next contended that the impugned show cause notice was beyond time and therefore the provisions of Section 11(A) could not have been invoked. It could not be shown to us that the Department had knowledge that during this period sleepers had been supplied free of costs. The Appellants had not taken out any licence. They also did not file any classification list. They cleared the goods without payment of any duty. They did not comply with any of the formalities under the Act. It is, therefore, not possible to accept this contention.

In this view of the matter, we see no reason to interfere with the impugned Judgment. The Appeal stands dismissed. There will be no order as to costs.

.....J.
(S.N. Variava)

.....J.
(H.K. Sema)
New Delhi;
January 13, 2004.