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C.A.No. 4423 OF 1997
ITEM No.103

Court No. 2

SECTION 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 NO.4423/1997

Collector of Cent.Excise Pune

Appellant(s)

VERSUS

M/s Wander Ltd.
(With appln(s) for stay and with office report)

Respondent (s)

Date : 27.8.2003:This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. RAJENDRA BABU
HON'BLE MR. JUSTICE G.P. MATHUR

For Appellant (s)Mr.Ranjit Kumar, Sr. Adv.
Mr.B. Krishna Prasad, Adv.

For Respondent (s)Mr. Punit Dutt Tyagi, Adv.

UPON hearing counsel the Court made the following

O R D E R

Learned senior advocate/learned counsel for the parties made their submissions from 12.30 p.m.
to 12.45 p.m

The appeal is dismissed in terms of the signed order.

(Meenu Sethi)
Court Master

(Om Prakash)
Court Master

Signed order is placed on the file

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4423 OF 1997

Collector of Cent. Excise Pune

...
Appellant

VERSUS

M/s Wander Ltd.
...
RESPONDENT

O R D E R

The tribunal proceeded on the basis of an earlier judgment in Collector of Central Excise, Pune Vs. Frozen Foods (P) Ltd.- 1987(27) E.L.T. 195 wherein it was held that the commodity- Spert in question itself was exempted from tax. Therefore, the question of valuation would not arise. We do not think we should interfere with the order made by the tribunal.

Mr. Ranjit Kumar, learned senior advocate appearing for the appellant, however, brings to our notice a subsequent decision of the tribunal in Wander Ltd. Vs. Collector of Central Excise of Bomaby- 1999(110) E.L.T. 735 in which the product- Spert is held to be only an edible preparation and not a dairy product. The claim made by the respondent that it was exempted from duty could not be disputed at all as it was

exempted in view of the decision in 1987(27) E.L.T. 195. Hence the question of valuation did not arise for consideration.

The parties could not avail of the benefit of decision in 1999(110) E.L.T. 735 as the decision thereto was rendered much later.

As long as the commodity stood exempted from tax its valuation would not arise at all. The later decision could be applied in future cases where the question arises as to whether the commodity was exempted or not.

In this light it is unnecessary to examine correctness of the decision of the Tribunal. The appeal is dismissed accordingly.

.....J.
(S. RAJENDRA BABU)

.....J.
(G.P. MATHUR)
New Delhi,
August 27, 2003.