

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. 4991 OF 2001

Commissioner of Central Excise, Mumbai

Appellant(s)

Versus

M/s. Neoluxe India Pvt. Ltd.

Respondent(s)

(with office report)

Date: 28/11/2006 This/these matter(s) was/were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHAN
HON'BLE MR. JUSTICE DALVEER BHANDARI

For Appellant(s)

Mr. M. Paikadey, Sr. Adv.
Mr. Navin Prakash, Adv. for
Mr. B. Krishna Prasad, Adv.

For Respondent(s)

Mr. A.R. Madhav Rao, Adv.
Mr. M.P. Devnath, Adv.

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

The appeal is dismissed in terms of the signed order.

(J.S. Rawat)

(Kanwal Singh)

AR-cum-PS

Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4991 OF 2001

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O R D E R

This appeal under Section 35L(B) of the Central Excise Act, 1944

has been filed by the Revenue against Final Order No. 536/2000-C dated

12th December, 2000 passed by The Custom, Excise & Gold (Control)

Appellate Tribunal, New Delhi [for short "the Tribunal"] in Appeal No.

E/5854/92-C.

The assessee was classifying the goods manufactured by it under

tariff item 68 of the erstwhile Central Excise Tariff prior to 1st March,

1986. The assessee was served with a show cause notice dated 31st

October, 1986 proposing to demand central excise duty under tariff item

15A(2). Extended period of limitation was invoked.

The Authority in Original dropped the demand on the ground that

there is no demand under tariff item 68 where these items are classifiable.

Aggrieved against the order of the Authority in Original, Revenue

filed an appeal before the Tribunal, which has been dismissed by the

impugned order.

Heard the counsel on both sides.

We do not find any infirmity in the order passed by the Tribunal.

Moreover, the point in issue in the present appeal is squarely covered by a judgment of this Court in Collector of Central Excise, Hyderabad v. Bakelite Hylam Ltd. [(1997) 10 SCC 350]. Paragraph 30 of the said judgment is extracted below:

"It is the contention of the Central Excise Department that industrial laminates and glass epoxy laminates cannot be considered as electrical insulators because these sheets are required to be cut in the requisite shape and holes may have to be punched in them before they could be fitted as insulators. However, mere cutting or punching holes does not amount to manufacture. These sheets have insulating properties and are used as electrical insulators. They cannot be taken out of the category of electrical insulators only because they have to be cut to the requisite shape or a few holes may be required to be punched in them in order that they may fit into the electrical instrument/appliance in question. The Tribunal, therefore, has correctly classified these industrial laminates and glass epoxy laminates under Tariff Item 8546 of the New Customs Tariff (after 1-3-1988) and under Tariff Entry 7014 under the New Customs Tariff up to 28-2-1988. Under the Old Customs Tariff, however, there is no express entry dealing with electrical insulators equivalent to Entry 8546.00 of the New Customs Tariff. Entry 15-A(2) of the Old Tariff will not cover these laminated sheets also for the same reason as in the case of decorative laminated sheets. These sheets, therefore, have been rightly classified under the residuary Tariff Entry 68 of the Old Customs Tariff."

In view of the above decision, the appeal is dismissed leaving the

parties to bear their own costs.

.....J.
(ASHOK BHAN)

New Delhi;
November 28, 2006.

.....J.
(DALVEER BHANDARI)