

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

C I V I L A P P E A L N O . 1 9 2 5 O F 2 0 0 2

M/S. M A R S O N S F A N I N D U S T R I E S

Appellant(s)

V E R S U S

C O M M I S S I O N E R O F C E N T R A L E X C I S E , C A L C U T T A

Respondent(s)

Date: 1 2 / 1 2 / 2 0 0 7 This Appeal was called on for hearing today.

C O R A M :

H O N ' B L E M R . J U S T I C E A S H O K B H A N
H O N ' B L E M R . J U S T I C E A L T A M A S K A B I R

For Appellant(s) Mr. Joseph Vellapally, Sr. Adv.

Mr. Sheo Ku m a r Gupta, Adv.for
Mr. A.N. B a rdiya r, Adv.

For Respondent(s)

Mr. V.Shekha r, Sr. Adv.
Ms. Shalini Ku m a r , Adv.for
Mr. B. K . P r a s a d , Adv.

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

Appellant is a small scale industry. It commenced manufacturing electric fans falling under the erstwhile tariff item No.3 3 after obtaining central excise licence. Rotors and Stators falling under tariff item No.3 0 D , essential components required for the manufacture of electric fans, were also manufactured by the appellant and captively used. Appellant from time to time also received orders for doing diversified specialised processing work on job work basis on customers' raw materials like winding, die casting, coil setting etc. which did not transform the customers' raw materials into Rotors and Stators as commercially known and the customers undertook various further processes in their own factories to manufacture Rotors and Stators and used the same in the manufacture of their fans.

For the period Ja nu a ry, 1 9 8 3 to March, 1 9 8 4 , the Collector vide its order dated 3 1 st

May, 1 9 8 8 held that the Rotors and Stators were complete and were manufactured by the appellant and thus exigible to the levy of excise duty.

This order was confirmed by the Tribunal by the impugned order dated 2 7 th

April, 2 0 0 1 .

Orders of the Tribunal as well as the Collector are under challenge in this appeal.

Mr. Joseph Vellapally, learned senior counsel for the appellant has

brought to our notice that in a case pertaining to earlier period from Februa ry, 198 2 to December, 1 9 8 2 , the Collector(very same officer) in Order (Original) No.6 1(3 0 - D)8 7- Collr. 5 7 / 8 9 dated 2 1 st

July, 1 9 8 9 took the view that Rotors

and Stators were incomplete, not finished goods and not known in the market as Stators and Rotors. He also states that the subsequent order dated 2 1 st

Jul y, 1 9 8 9 was

brought to the notice of the Tribunal but the Tribunal did not take note of it. In support of his assertion, learned senior counsel has filed an affidavit of the counsel who had appeared for the assessee before the Tribunal. He further states th

at the
department has accepted the subsequent decision dated 21
89 for the
period February, 1982 to December, 1982. He submits that in view of the fact
that
the department has accepted the subsequent decision dated 21
89 in which
it has been held that the Rotors and Stators are not finished goods and therefore
not exigible to the levy of excise duty, the present appeal should be accepted and the
impugned order be set aside.
Learned senior counsel appearing for the department seeks time to verify
about the correctness of the order dated 21
n as to
whether the said order has attained finality or not.
Adjourned by four weeks.

(Parveen Kr. Chawla)
Court Master

(Kanwal Singh)
Court Master

NOTE: COPY OF THE ORDER BE GIVEN DASTI