

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.1401-1402 OF 2001

M/S. SWASTIK UDYOG

APPELLANT(S)

VERSUS

COMMNR. OF CENTRAL EXCISE, MEERUT

RESPONDENT(S)

O R D E R

The dispute in these cases is whether the "pan chutney" is classifiable under Tariff Heading (for short 'T.H.') 2103.11 or T.H. 2107.91 of the Central Excise Tariff Act, 1985. According to the appellant-assessee Pan Chutney is classifiable under T.H. 2103.11, which reads :-

"Sauces, ketchup and the like and preparations therefor;"

According to the Revenue-respondent, the item is classifiable under

T.H. 2107.91 which covers "edible preparations not elsewhere specified

or included".

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The Tribunal had in Hari Chand Shri Gopal Vs.

Commissioner of Central Excise, 1996(83) ELT 281 upheld the

contention of the Revenue. As far as the impugned judgment is

concerned, initially there was a difference of opinion between two

Members. The Judicial Member differed with the conclusion expressed

in Hari Chand's case (supra). The other Member in effect, followed the

reasoning of the Judgment. The matter was referred to the third

Member, who also agreed with the view expressed in Hari Chand's case

(supra).

Pan Chutney is certainly edible. Therefore, it could be

classified under the residuary item 2107.91 unless it was specifically

covered by some other tariff heading. As the Judicial Member has

himself noted, sauce or a ketchup is normally an accompaniment to

food. Pan is not food although it may be edible. The Judicial Member's

reasoning that Pan Chutney was not edible is, in our view, incorrect. A

food is defined by the Judicial Member and with which we agree as "a

substance which is taken into the body to maintain life and growth".

Sauce is generally taken as an accompaniment with food.

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The use of the words "the like" in T.H. 2103.11 would not stretch to

cover

items other than accompaniments to food. Since Pan is not a food any

accompaniment with it would not fall within T.H.2103.11.

The appeals are accordingly dismissed. No costs.

.....J.

(RUMA PAL)

.....J.

(DALVEER BHANDARI)

NEW DELHI;

3RD MAY, 2006.

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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(s). 1401-1402 OF 2001

M/S. SWASTIK UDYOG

Appellant (s)

VERSUS

COMMNR. OF CENTRAL EXCISE, MEERUT

Respondent(s)

(With office report)

Date: 03/05/2006 These Appeals were called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE RUMA PAL

HON'BLE MR. JUSTICE DALVEER BHANDARI

For Appellant(s)

Mr.M.P.Devanath, Adv.

Mr.Alok Yadav, Adv.

Mr.Rajesh Kumar, Adv.

Mr. Krishna Kumar,Adv.

For Respondent(s)

Mr.Rudreshwar Singh, Adv.

Mr. P. Parmeswaran,Adv.

Mr.B.K.Prasad, Adv.

UPON hearing counsel the Court made the following

O R D E R

Appeals are dismissed, in terms of the signed order.

No costs.

(G.V.Ramana)

Court Master

(Madhu Saxena)

Court Master

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(Signed order is placed on the file)