

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). 3678-3687 OF 2000

COMNR. OF CENTRAL EXCISE, MUMBAI-III

Appellant (s)

VERSUS

M/S. CONVERTOR ADHE.& CHEMICALS (P)LTD.

Respondent(s)

(With office report)

Date: 31/08/2005 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.N. VARIAVA

HON'BLE MR. JUSTICE C.K. THAKKER

HON'BLE MR. JUSTICE TARUN CHATTERJEE

For Appellant(s)

Mr. Mohan parasaran, ASG

Mr. A. Subba Rao, Dv.

Mr. Gaurav Dhingra, Adv.

Mr. P. Parmeswaran, Adv.

For Respondent(s) Mr. Soli J. Sorabjee, Sr. Adv.

Mr. Ravinder Narain, Adv.

Mr. Bharat Shah, Adv.

Ms. Sonu Bhagnagar, Adv.

Mr. Ajay Aggarwal, Adv.

Mr. Sanjeev Dahiya, Adv.

Ms. Amrita Bhinder, Adv.

Mr. Rajan Narain, Adv.

Mr. Preteesh Kapoor, Adv.

Mr. Rajan Narain, Adv.

UPON hearing counsel the Court made the following

O R D E R

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

(K.K. Chawla)
Court Master

(Jasbir Singh)
Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.3678-3687 OF 2000

COMNR. OF CENTRAL EXCISE, MUMBAI-III

Appellant (s)

VERSUS

M/S. CONVERTOR ADHE.& CHEMICALS (P)LTD.

Respondent(s)

O R D E R

These Appeals are against the Judgment of the Customs, Excise and

Gold (Control) Appellate Tribunal (in short "CEGAT") dated 19th August, 1999.

Briefly stated the facts are as follows:-

The Respondent manufactures adhesives based on plastics. They clear

the adhesives in two sets, which after purchase have to be mixed together in

order to form an adhesive. They filed classification list classifying the product

under T.I. No.35.06. The classification list was approved.

It appears that in 1992, the Respondent exported some products.

While exporting the products they classified the two items separately. The

Department then issued 10 show cause notices claiming that the correct

classification should be under T.I. No.39.09.60. The show cause notices were for

a period of July 1988 to March, 1995. In respect of the first show cause notice

dated 4th August, 1993 which was for the period July, 1988 to April, 1992, the

question also arose as to whether the extended period under Section 11A could

be invoked.

The Commissioner by his order dated 12th December 1996 held that the

product was classifiable under T.I. No.39.09.60 and confirmed the demand for

duty as well imposed penalty and interest. The Appeal filed by the Respondent

before CEGAT has been allowed by the impugned Judgment. It has been held

that the product is correctly classifiable under T.I. No.35.06.

We have heard the parties at length. Even though we do not completely

agree with the reasoning given by the Tribunal, we find that by virtue of Section

Note (2) of Section VI and Section Note (1) of Section VII of Central Excise

Tariff Act, 1985, the product would be correctly classifiable under T.I. No.35.06.

If a good is sold in two sets consisting of two or more separate constituents, some

or all of which fall in Sections VI or VII and the goods are intended to be mixed

together to obtain a product falling under Sections VI or VII, then that product

has to be classified in the appropriate heading of that product. In this case,

admittedly the goods are sold in two sets one set being a polyurethanes resins

and the other set being polyisocyanate. The polyurethane resin falls under T.I.

No.3909.60. When the above products are mixed together they become adhesives

which is a product falling in T.I. No.35.06. Therefore, as per these notes it has to

be classified as adhesives.

In this view of the matter, we see no reason to interfere with the

impugned Judgment. The Appeals stand dismissed. There will be no order as to

costs.

.....J.

(S.N. Variava)

.....J.

(C.K. Thakker)

.....J.

(Tarun Chatterjee)

New Delhi;

August 31, 2005.