

Lathia Industrial Supplies Co. Pvt. Ltd.

Vs

Collector of Central Excise Baroda

Civil Appeal No. 31 of 1986

(Ranganath Misra, M. M. Dutt JJ)

06.01.1987

ORDER

1. We have heard learned counsel for the parties at some length.
2. On September 1, 1986, the Superintendent of Central Excise, Range No. 1, Ahmedabad, intimated to the appellant as follows : (relevant portion extracted)

It is decided that with effect from March 14, 1986 .... re-rubberising and re-lining of old and used vessels such as tanks etc. may be held as process not amounting to "manufacture" in terms of Section 2(f) of the Central Excises and Salt Act, 1944.

It is not dispute before us that after March 14, 1986, the respondent has not been treating re-rubberising and re-lining of old and used vessels as manufacture for the purpose of levy of duty under the Act.

3. Mr. Soli J. Sorabjee, appearing for the appellant, has confined his contention to the justifiability of the cut-off date of March 14, 1986. After hearing learned Additional Solicitor General appearing for the respondent, we are of the view that there is no foundation for fixing March 14, 1986 as the commencement of the period from which the process would not amount to manufacture. Since it is not in dispute that the appellant has been undertaking the same process both before and after March 14, 1986, and the law to be applied has not been changed, the transactions prior to March 14, 1986 would also not amount to manufacture within the meaning of Section 2(f) of the Act.

4. We allow the appeal and hold that re-rubberising and relining of old and used rollers (sic vessels) would not amount to manufacture both before and after March 14, 1986. The appellant shall be entitled to the consequential benefits in the matter of refund of duties already collected.

5. The learned Solicitor General posed the question of limitation in the matter of claim of refund. We find that on such question has over been raised in the forums below. The claim for refund confined to the process of re-rubberising shall be disposed of within three months from today. There would be no order for costs.

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