

Collector of Central Excise, Madras

Vs

M/S Newman Press and Others

Civil Appeal No. 4197 of 1986

(S Ranganathan, N. D. Ojha, J. S. Verma JJ)

09.11.1989

ORDER

1. These are appeals under Section 35-L (b) of the Central Excises and Salt Act ('the Act') from an order of the Customs, Excise and Gold (Control) Appellate Tribunal dated July 30, 1986. The question before the Tribunal was as to whether the excise duty in respect of cartons manufactured by the respondents was leviable under the Act. These cartons has been exempted from payment of duty up to February 27, 1982 under Notification No. 105/80. However, the Finance Act of 1982 made these cartons exigible to duty under the Tariff Item 17 (4) with effect from February 28, 1982. The plea of the assessee was that the cartons, the levy of duty on which was under challenge, had been manufactured before February 28, 1982 and were in stock on that date and the levy cannot attach to them merely because they were cleared after February 28, 1982. The Tribunal accepted the contention raised on behalf of the assessee and, following certain earlier judgments of the Tribunal, held that the pre-budget stocks of cartons which were cleared after the introduction of the new budget would not be chargeable to excise, duty. The Collector, Central Excise has preferred this appeal. The appeal was admitted by this Court on November 16, 1987.

2. Learned counsel for the appellant invited our attention to the decision of this Court in Wallace Flour Mills Co. Ltd. v. Collector of Central Excise. This Court has held that, having regard to the scheme of the Act as well as the terms of Rule 9-A of the Central Excise Rules, the central excise authorities are competent to apply the rate prevailing on the date of removal of goods even though the production or manufacture may have been completed at a point of time when the goods were exempt from tax.

3. Following the above decision of this Court, this appeal is allowed. The order of the Appellate Tribunal will stand set aside and the order of the Assistant Collector, Central Excise will stand restored, subject to such other contentions or objections as may be available to the assessee in law. We make no order as to costs.

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