

Union of India and Others

Vs

Manager, Dirok Tea Estate

Civil Appeal No. ... of 1996

(S. C. Sen, B. P. Jeevan Reddy JJ)

09.02.1996

ORDER

1. Leave granted.

2. This appeal is preferred against the judgment of the Gauhati High Court disposing of the writ petition stating that the point raised therein is covered by the decision of the Supreme Court in *Salonah Tea Co. Ltd. v. Supdt. of Taxes* [(1988) 1 SCC 401 : 1988 SCC (Tax) 99(II)]. Indeed, it appears that both the counsel for the writ petitioner (respondent herein) and the Revenue were agreed on that score. Accordingly, it was directed that the writ petitioner shall be refunded the amount of Rs 1,10,823.57p.

3. We, however, find that the point raised herein has no concern with the decision in *Salonah Tea Co. Ltd.* [(1988) 1 SCC 401 : 1988 SCC (Tax) 99(II)] The question here is what is the appropriate rate of duty on tea. For the purpose of rate of duty, the State of Assam was divided into six zones. Different rates were fixed for different zones. District Lakhimpur was in Zone 5. Later, Lakhimpur District was bifurcated into two districts namely, Lakhimpur and Dibrugarh. Respondent-Tea Company was in the new District Dibrugarh. Since the relevant excise notification was not amended simultaneously with the said bifurcation, the respondent raised a contention that since Dibrugarh is not mentioned as falling in Zone 5, it falls in the residuary zone, i.e., Zone 6 and hence liable to pay duty at a lower rate.

4. In similar matters, we have taken the view that merely because the Central Excise notification was not amended to include Dibrugarh District by name, simultaneously with the aforesaid bifurcation, it cannot be said that the area comprised in Dibrugarh District ceases to be in Zone 5. The zoning is areawise and the names of the districts are merely descriptive. The area included in Zone 5 does not go out of that zone merely because part of that area comes to bear a new district name.

5. The appeal is allowed accordingly. The order of the High Court is set aside.

6. No costs.