

Collector of Central Excise

Vs

Rane Brake Linings Ltd., Madras

Civil Appeal No. 4251 of 1988

(S. Saghir Ahmadi, S. B. Bharucha JJ)

01.08.1996

ORDER

1. The respondents manufacture non-automotive brake linings and clutch facings. The composition of their products by weight is as follows :

##"Mineral fibre : 40-45%Metal powder : NilChemicals : 20-27%Resins : 15%Organic oils : 18%"##

The respondents were sought to be made liable to excise duty under Tariff Item 22-F(iv) which reads thus :

"22-F. (iv) Manufactures in which mineral fibres or yarn or both predominate or predominates in weight."

2. The Customs, Excise and Gold (Control) Appellate Tribunal, New Delhi took the view, relying upon an earlier order and upon the judgment of the Madhya Pradesh High Court in Hind Syntex Ltd. v. Union of India [(1987) 12 ECR 1028 : (1985) 19 ELT 35] that what had to be considered was whether the particular fibre constituted the bulk of the product.

3. Learned counsel for the Revenue has drawn our attention to the judgment of this Court in CCE v. Rajasthan Spg. & Wvg. Mills Ltd. [1993 Supp (1) SCC 420 (II)] This Court was dealing with a group of entries in the Tariff which dealt with composite yarn of various categories. The entries proceeded on the assumption that there were various types of composite yarn which consisted of different categories of yarn which were spun together and the entries specified that the composite yarn should be treated as belonging to that category in which one relevant category predominated in weight. It is true that the Court was there dealing, as aforementioned, with a group of entries dealing with composite yarn, but it did say this : (SCC p. 423, para 6)

"The word 'predominate' in the context of a composite yarn made of different types of yarn, has a very simple meaning, namely, that the percentage of the particular yarn with which one is concerned should predominate over the weight of the other constituents of the composite yarn."

4. The judgment is binding upon us and applies to this case. Following it, the appeal is allowed and the judgment of the Tribunal is set aside.

5. No order as to costs.