

Collector of Central Excise

Vs

Ram Body Builders

Civil Appeals No. 636 of 1991 with Nos. 504 of 1992, 1246 of 1990, 8786 of 1995, 4826-33 of 1989, 4668 of 1989, 403 of 1994, 2768 of 1991, 2504-06 of 1992 and 2822 of 1987 and Slps Nos. 15606-08 of 1991

(S.C. Agarwal, G.T. Nanavati JJ)

02.09.1997

ORDER

1. In these matters the respondents are small-scale manufacturers who build or fabricate only bodies for buses or trucks on Chassis supplied by their customers. The question that falls for consideration in these appeals and special leave petitions is whether the bodies so manufactured are classifiable under Heading No. 87.07 or under Headings Nos. 87.02 and 87.04 of the Central Excise Tariff. If the bodies are held to be classifiable under Heading' No. 87.07 the same would be entitled to exemption from excise duty under Notification No. 175 of 1986 dated 1-3-1986. The Division Bench of the High Court of Punjab and Haryana by its judgment dated 19-12-1989 under challenge in SLPs (C) Nos. 15606-08 of 1991 has held that the bodies were covered by Heading No. 87.07 as claimed by the assessee and not by Headings Nos. 87.02 and 87.04 as claimed by the Revenue. The same view has been taken by the Customs, Excise and Gold (Control) Appellate Tribunal (hereinafter referred to as "the Tribunal") in various judgments which are under challenge in these appeals. Civil Appeal No. 531 of 1994 as well as in Civil Appeal No 2138 of 1989 filed by the Revenue against the judgments of the Tribunal taking the same view have been dismissed by this Court. We have heard the learned counsel for the Revenue and we have perused the impugned judgments. We are in agreement with the views of the High Court as well as of the Tribunal that the bodies which are built on chassis supplied by the customers would fall under Heading No. 87.07 of the Central Excise Tariff and would be entitled to exemption from excise duty under Notification No. 175 of 1986 dated 1-3-1986. The appeals as well as the special leave petitions are, therefore, dismissed.

Civil Appeal No. 2822 of 1987

2. In Civil Appeal No. 2822 of 1987 the Tribunal has held that the respondents are liable to pay excise duty @ Rs. 4000 per vehicle on the basis of Notification No. 279 of 1986 dated 24-4-1986. The respondent has not challenged the said view of the Tribunal and has paid the duty as per the said decision. While dismissing the above appeal filed by the Revenue, it is made clear that the impugned judgment of the Tribunal insofar as it relates to imposition of excise duty @ Rs. 4000 per vehicle will remain undisturbed. No costs.