

Union of India

Vs

Bhadra Sahakari Sakkare Karkhana Niyamit

SLP (C) No. 19708 of 1995

(S. B. Majmudar, M. Jagannadha Rao JJ)

31.07.1998

ORDER

1. Learned Senior Counsel for the petitioner is right when he contends relying upon a Constitution Bench decision of this Court in the case of Mafatlal Industries Ltd. v. Union of India [(1997) 5 SCC 536] that as per Rule 330(b)(sic), the payment of duty under protest can be said to have taken place only when a letter of protest was delivered to the proper officer and that date is found by the Assistant Collector to be 15-9-1981. He, therefore, submits that the demand for refund from 1-9-1981 to 14-9-1981 would get time-barred as the application for refund was filed on 17-3-1982. The duty paid for the disputed period amounts to Rs. 37,000 and odd. As the amount involved is too small even though we agree with learned Senior Counsel for the petitioner that on the question of law, he is on a stronger footing, in the peculiar facts and circumstances of this case, we are not inclined to interfere under Article 136 of the Constitution of India.

2. The special leave petition is accordingly dismissed.

Court Masters