

SUPREME COURT OF INDIA

Karnataka Chemical Industries

Vs.

Union of India

C.A.No.4123 of 1983

(B Kirpal and S R Babu JJ.)

21.07.1999

ORDER

1. This appeal arises from the judgment dated 4th March, 1983 of the Delhi High Court. The appellant had filed a writ petition in the High Court, inter alia, challenging the levy of additional duty of customs under Section 3 of the Tariff Act. The High Court following its decision in M/s Khandelwal Metal and Engineering Works and Anr. v. Union of India dismissed the writ petition. In the present appeal it was contended that the matter is similar to M/s Khandelwal Metal and Engineering Works and Anr. v. UOI which was pending in this Court. It is on that basis that this appeal was admitted. When this Court decided the appeal arising from the Delhi High Court in M/s Khandelwal Metal and Engineer Works and Anr. v. UOI it was represented that the point involved in this appeal is different. M/s Khandelwal Metal & Engineering Works' case was concerned with brass scrap whereas the present case was concerned with copper scarp. On that basis it was delinked. On 28th February, 1999 it was represented to this Court that the point in issue is identical to the one involved in CA No. 1354/1980, namely Hyderabad Industries Ltd. and Anr. v. UOI. Now that appeal has also been heard but it was represented that this appeal should be delinked and this prayer was accepted.

2. We find that the question involved in this appeal essentially turns on the interpretation of the provisions of the statute. There are decisions of this Court where these provisions have been interpreted. In any case, when there is no challenge to the validity of any statutory provision, we see no reason as to why a writ petition should have been filed by passing the alternative remedy which is provided under the statute. On this short ground we dismiss this appeal, vacate the interim orders,

direct the payment of the balance amount of duty along with interest @ 15% per annum with yearly rests.

3. It will be open to the appellant to avail of such statutory remedy as may be available to it. If an appeal is filed within four weeks from today, the Department will take the lenient view in condoning the delay.

1. SPECIALLEAVE PETITION (C) 2152/1983

4. Leave granted.

5. In view of the decision of this Court in M/s Khandelwal Metal & Engineering Works and Anr. v. UOI we see no reason to interfere in this appeal. The same is dismissed with liberty to the appellant to raise any other contention before the Department in an appeal, if the appeal is filed within four weeks from today. The interim orders of stay are vacated. The balance amount of duty should be paid within four weeks from today along with interest @ 15% per annum with yearly rests. If the appeal is filed within four weeks the delay will be condoned by the Department. There will be no order as to costs.

2. CIVIL APPEAL NOS. 952-955 OF 1987

6. In view of the decision of this Court in Hyderabad Industries Ltd. v. UOI 1999 (108) ELT 321 SC these appeals are allowed. In view of the interim orders dated 26th October, 1989, passed by this Court the amount of tax paid as a result of the assessment shall be refunded along with interest @ 12% per annum from the date of payment till the date of refund.