

**SUPREME COURT OF INDIA**

Collector of C. Ex., Bangalore

Vs.

Balakrishna Perfumary Works

(S Bharucha, N S Hegde and S V Patil JJ.)

17.04.2002

**ORDER**

1. The assessee makes a garbs this. The Tribunal, following its judgment in the case of *Ambica Chemical Products*<sup>1</sup>, held in favour of the assessee.

2. Our attention is drawn by learned counsel for the Revenue to the findings of the Collector, Central Excise that power was used by the assessee in making nerve and masala paste in the course of the manufacture of a garbs this and that, therefore, they were classifiable under Tariff Item 69 and were dutiable. Our attention was also drawn to the judgment of this Court in *Padmini Products v. Collector of Central Excise*<sup>2</sup> where it has been held that a garbs this were not entitled to be treated as handicrafts and, therefore, exempted if some portion of the work required for their manufacture was done by hand but the main portion thereof was done with the aid of power.

3. Now, in the instant case, clearly, the judgment of this Court in the case of *Padmini Products* would apply if the main part of the manufacturing process undertaken by the assessee was with the aid of power. But there is no application of mind by the Tribunal to this aspect. It seems to us, therefore, appropriate that the Appeal (E/A No. 806/86-D) should stand restored to the file of the Tribunal at New Delhi to consider what the facts in regard to the manufacture of a garbs this by the assessee are, in the light of the judgment of this Court in the case of *Padmini Products*.

4. Order on the appeal accordingly.

5. No order as to costs.

<sup>1</sup>(60 E.L.T. 656)

<sup>2</sup>(43 E.L.T. 195)