

SUPREME COURT OF INDIA

Commissioner, Central Excise, Nagpur

Vs.

M/s. Waingange Sahkari S. Karkhana Ltd.

C.A.No.496 of 1998

(N. Santosh Hegde and Shivaraj V. Patil JJ.)

18.04.2002

ORDER

N. Santosh Hegde, J.

1. The Tribunal was concerned with whether making trusses, columns and purlines amounted to manufacture. The Tribunal followed an earlier decision in the case of *Aruna Industries, Vishakhapatnam v. C.C.E., Guntur*¹. It did not follow another decision in the case of *Structurails and Machineries (Bokaro) Pvt. Ltd. v. Collector of Central Excise*².

2. It is submitted on behalf of the Revenue that there are conflicting views taken by the Tribunal and that such conflicting views have been taken even after the impugned order.

3. In one of these subsequent JUDGMENTS, in the case of *Richardson & Cruddas (1972) Ltd. v. Collector of Central Excise*³, the case of *Aruna Industries* (supra) has been considered and found to be applicable to a situation where the assessee was erecting the structures at the construction site and fabricating materials on the spot; it was therefore found that this could not be consideration to be fabrication in a factory. Now, in the instant case, the Tribunal noted that it had been found as a fact by the Collector that the assessee had undertaken fabrication work at site. This was a case, therefore, to which the decision of *Aruna Industries* (supra) applied and the Tribunal's order cannot be faulted.

4. The appeal is dismissed. No order as to costs.

¹1986(25) ELT 580

²1984(17) ELT 127

³1988 (38) ELT 176