

SUPREME COURT OF INDIA

Divisional Forest Officer, Ranni, Kerala

Vs.

Collector of Central Excise and Customs

C.A.No.2535 of 1998

(S. N. Variava and H. K. Sema JJ.)

13.01.2004

JUDGMENT

The Order of the Court is as follows:-

1. This appeal is against an order dated 5th December 1997 passed by the Customs, Excise & Gold (Control) Appellate Tribunal. The question raised is whether the Appellants are liable to pay excise duty in respect of sleepers supplied by them to the railways.
2. It was submitted that the Appellants were not manufacturing any sleepers but were only supplying timbers to the railways. This submission is contrary to the admitted position. In reply to the show cause notice sent on 10th November, 1988, the Appellants admitted that sleepers were being manufactured by them. In the reply it was only contended that there was no commercial activity in such manufacturing. Also show cause notices had been issued to the Appellants for earlier periods also. Even at that stage it had been admitted that the Appellants were manufacturing sleepers. Duty was levied for the earlier periods. That duty has been paid by the Appellants. This also shows that it is an admitted position that sleepers were being manufactured by the Appellants.
3. It was next contended that the impugned show cause notice was beyond time and therefore the provisions of Section 11 (A) could not have been invoked. It could not be shown to us that the Department had knowledge that during this period sleepers had been supplied free of costs. The Appellants had not taken out any licence. They also did not file any classification list. They cleared the goods without payment of any duty. They did not comply with any of the formalities under the Act. It is, therefore, not possible to accept this contention.