

SUPREME COURT OF INDIA

Collector of Central Excise, Calcutta

Vs.

International Agency (I)

C.A.No.3194 of 1998

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

12.02.2004

JUDGMENT

S. N. Variava, J.

1. This Appeal is against the Judgment of the Customs, Excise and Gold (Control) Appellate Tribunal (CEGAT), dated 11th February 1998. The Tribunal has, in a one paragraph Judgment, relied on its earlier decision in *Shalimar Paints reported in*¹ and dismissed the Appeal of the Appellant. We have seen the Judgment in *Shalimar Paints*. In that case the question was whether the manufacture of thinners from the material procured by *Shalimar Paints* took them out of the purview of the Notification. In this case, as seen from the Show Cause Notice, the issue is whether or not the Respondents have complied with the terms of the Notification inasmuch as they are alleged to have used material procured outside the factory of production without following the process under Chapter X of the Central Excise Rules, 1944. This case is therefore not covered by the ratio laid down in *Shalimar Paints* case.

2. We, therefore, set aside the impugned order and remit the matter back to the Tribunal for disposal on merits.

3. The Appeal is disposed of accordingly. There will be no order as to costs.

¹1997 (22) RLT 280