

SUPREME COURT OF INDIA

Coats Viyella India Ltd.

Vs.

Commissioner of Central Excise

C.A.Nos.2108-2110 of 1998

(Arijit Pasayat and P. P. Naolekar JJ.)

01.09.2004

JUDGMENT

Arijit Pasayat, J.

1. Heard learned Counsel for the parties.
2. The appellant questions correctness of the order passed by the Customs, Excise and Gold (Control) Appellate Tribunal, South Zonal Bench at Madras (for short 'the CEGAT').
3. Background facts are as follows:-

“Four show cause notices were issued to the appellant indicating that the benefits available under Notification No. 297/1979, as amended, were not available to it, and it was not entitled to exemption from Additional Excise Duty. The appellant filed its reply and submitted that the notification was clearly applicable. The adjudicating authority did not accept the stand of the appellant and held that the benefits under the notification were not available to it. Appeals were preferred before the Collector of Central Excise (Appeals), who by his order dated 30-10-1997, held that the present appellant was entitled to the benefits under the aforesaid notification. Being aggrieved by such adjudication by the appellate authority, the Revenue filed appeals before the CEGAT. By the impugned order, the appellate authority's orders were set aside and those of the adjudicating officer were restored.”

4. Learned Counsel for the appellant highlighted many aspects to contend that the view of the first appellate authority was correct, and without even discussing as to how the conclusions were erroneous, the CEGAT set aside the order of the appellate authority and restored the orders passed by the adjudicating authority. Mr. Anoop G. Chaudhary, learned Senior Counsel appearing for the respondent supported the order of the CEGAT.

5. We find that the first appellate authority, i.e. the Collector of Central Excise (Appeals) had indicated reasons as to why it found the assessee-appellant to be entitled to benefits under the

concerned notification. The CEGAT, while dealing with the appeals of the revenue did not specifically refer to the conclusions of the first appellate authority and did not indicate any reason as to why it was of the view that the conclusions were not correct. Least that was required to be done was to indicate reasons for differing with the Collector of Central Excise (Appeals)'s order. CEGAT has power to differ from the view expressed by the first appellate's authority. But that is not unbridled power. When a different view is taken, reasons to support such view must be indicated clearly expressing as to why the lower authority's view is wrong. That has not been done in the instant case.

6. In the aforesaid circumstances, we set aside the order of the CEGAT and remit the matter to it for fresh consideration. The parties shall be at liberty to place materials in support of their respective stands. Thereafter, CEGAT shall adjudicate the matter afresh in accordance with law. We make it clear that we have not expressed any opinion on the merits of the case.

7. The appeals are accordingly disposed of. No costs.