

SUPREME COURT OF INDIA

Commr. of Central Excise, New Delhi

Vs.

Sapna Foam Udyog Ltd.

C.A.No.2210 of 2000

(S. N. Variava, Dr. A. R. Lakshmanan and S. H. Kapadia JJ.)

05.01.2005

JUDGEMENT

S. N. Variava, J.

1. Parties agreed that this case would be fully covered by the judgment delivered by us today in the case of *Collector of Central Excise, Kanpur v. M/s. Matador Foam and others*¹ (Civil Appeal Nos. 3832-3837 of 1999). It may only be mentioned that the only point of difference, which is of no relevance to the decision in this case, is that in this case the Collector had exercised his powers under S. 35-E of the *Central Excise and Salt Act, 1944* to set aside the order of the Assistant Collector classifying the goods under Tariff Heading 40.08.

2. On the principles laid down in the case of *M/s. Matador Foam and others* (supra), the impugned judgment is set aside and it is held that the goods would be classifiable under Tariff Item 94.01.

3. The appeal is accordingly allowed. There will, however, be no order as to costs.
Appeal allowed.

¹2005 AIR SCW 224