

SUPREME COURT OF INDIA

Commissioner of Central Excise

Vs.

Primella Sanitary Products Private Limited

Cano.4365 of 2003

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

20.04.2005

JUDGMENT

S. H. Kapadia, J.

1. This appeal is against the Judgment of the Customs, Excise and Gold (Control) Appellate Tribunal (in short "CEGAT") WZB at Mumbai dated 22nd February, 2001.

2. The short question for consideration is whether the Respondent was entitled to the benefit of Notification No. 175/86-CE., dated 1st March, 1986 and Notification No. 1/93, dated 28th February, 1993. The only ground on which the Adjudicating authority had denied the benefit of the Notifications was that the Respondent was using on their products the words "Comfit Always" which was a registered trademark of one M/s. Christine Hodein (I) Pvt. Ltd. The Adjudicating authority held that the Assignment dated 28th June, 1987, for a consideration of Rs. 100, was not a bona fide assignment.

3. CEGAT has held that in view of the assignment it could not be said that the Respondent was not entitled to use the mark "Comfit Always". The Tribunal has held that so long as the Assignment stands, the Respondent is entitled to the benefit of these Notifications.

4. In our view, there is no infirmity in the order of the Tribunal. We see no reason to interfere. The Appeal stands dismissed. There will be no order as to costs.