

**SUPREME COURT OF INDIA**

Commnr. of Central Excise, Pune-I

Vs.

Bahar Agrochem & Feed (P) Ltd.

C.A.No.33361 of 2007

(S.H.Kapadia and B.Sudershan Reddy, JJ.)

04.02.2008

**ORDER**

1. Delay condoned. Appeal admitted. Mr. Ajay Aggarwal, learned counsel, accepts notice for the respondent. The short question which arises in the present case is: Whether 'Vipul Booster' is an 'insecticide' or whether it is a 'plant growth regulator'? We have gone through the judgment of the Tribunal. It has been pointed out on behalf of the Department, rightly, that the assessee has registered the above-mentioned product as 'insecticide' with the Directorate of Plant Protection, Ministry of Agriculture, Faridabad and that they have been regularly following all procedures and formalities stipulated under the Insecticide Act, 1968. This aspect has not at all been considered by the Tribunal. The Tribunal has also failed to consider the effect of the -2- issuance of such a certificate under the Insecticide Act, 1968. It is argued on behalf of the assessee that one of the ingredients of the above product is insecticide and the certificate issued under the Insecticide Act is only with reference to that ingredient only. All these questions will require fresh consideration in accordance with law by the Tribunal. Accordingly, the impugned judgment is set aside and the matter is remitted to the Tribunal for fresh consideration in accordance with law.

2. Appeal is disposed of.