

SUPREME COURT OF INDIA

Designated Authority, Ministry of Commerce

Vs.

Lubrizon (India Pvt.Ltd.)

C.A.No.5590 of 2008

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

10.09.2008

ORDER

1. Leave granted.

2. In this case, the following question of law arises for determination:

“Whether, in the facts and circumstances of the case, the CESTAT was right in holding that expression "like article" includes only the article which is the subject matter of investigation after being identified for the purpose of Rule 4(1)(b) and not on any other 'like article'.”

3. On 31st January, 2002, Initiation Notification was issued under Rule 5 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995. A Preliminary Finding was given on 29th July, 2002 pursuant to which the Designated Authority issued Preliminary Notification on 5th September, 2002. The Final Finding was given by the Designated Authority on 29th July, 2003 and, ultimately, in terms of the said Final Findings, Final Notification came to be issued under Section 9A(1)(5) on 1st October, 2003. The effect of the Final Notification was to impose anti-dumping duty on different types of Acyclic alcohol.

4. As can be seen from the afore-stated dates, the Preliminary Notification came to be issued on 5th September, 2002. The duty was leviable for five years. It was extendable but, in this case, it has not been extended. This period of five years, in the present case, ended on or about 4th September, 2007. Since then, it has not been extended. In the meantime, we are informed that the respondent has paid duty for five years. In the circumstances, we do not wish to go into the question of law, quoted herein-above. Prima facie, we are of the view that the Tribunal's decision needs proper evaluation and consideration particularly, in the context of the connotation to be given to the words "like article" under Rule 2(d) of the said Rules, 1995.

5. For the afore-stated reasons, although on the facts of the case, we do not wish to interfere, we keep the question of law expressly open. The said question will be decided in accordance with law in an appropriate matter.

6. Subject to what is stated herein-above, Civil Appeal is disposed of with no order as to costs.