SUPREME COURT OF INDIA

Commnr. of Central Excise, Bangalore

Vs.

Srikumar Agencies

C.A.No.4872-4892 of 2000

(Dr. Arijit Pasayat, P. Sathasivam and Aftab Alam JJ.)

27.11.2008

JUDGMENT

Dr. Arijit Pasayat, J

1. These appeals were placed before a three-Judge Bench because of reference made by a Division Bench with the following order:

> "The point involved in this batch of appeals is whether the printing on the package is merely incidental or primary. On this point we find that there are two streams of judgments of this Court. Therefore, keeping in view the conflict of opinion, on the point involved in *Rollatrainers Ltd.and Anr. v. Union of India & Ors.* [1] *, Collector of Central Excise, Bombay v. Paper Print & Products Co.*[2] *and Metagraphs Pvt. Ltd. v. Collector of Central Excise, Bombay*[3]*,* we deem it appropriate that these cases be placed for hearing before a larger Bench. Registry is directed to place the matter before Hon'ble the Chief Justice for appropriate orders."

2. When the appeals were taken up for hearing, Mr. G.E. Vahanvati, learned Solicitor General pointed out that the Customs, Excise and Gold (Control) Appellate Tribunal, Chennai (in short `CEGAT') disposed of several appeals without detailed analysis of the factual position involved. It merely referred to some judgments and submissions of learned counsel for the assessees who are present respondents to hold that the assessees are entitled to relief. The conclusions are practically non-reasoned and abrupt conclusions were arrived at to hold that printing on media was not merely incidental to its primary use but in fact clearly show the nature of goods contained therein. It is pointed out that five categories were involved. In the case of respondents -Srikumar agencies the article involved was Printed Gay Matter and Printed Agarbathi, in the case of M/s Faxwell Printers the article involved was Printed Gay Wrappers, in the case of M/s Rajhans Enterprises the article involved was Printed Labels, in the case of Sree Vijay Industries, it was Printed Agarbathi Labels and in the case of Regency Printers, it was Printed Labels. The articles were contextually different. It was also submitted that without detailed anaylsis of the factual position mere reliance on the decisions was not the proper way to dispose of the appeals. It is also pointed out that the

view expressed by CEGAT even on facts was contrary to the ratio laid down by this Court in *I.T.C. Ltd. v. Collector of Central Excise, Madras*[4] .

3. In response, learned counsel for the respondents-assessees submitted that the CEGAT is the last finding authority. From its varied experience having dealt with large number of cases, even by visual inspection of the materials it was in a position to record a conclusion. It is also submitted that the factual scenario is not different in these cases vis-a-vis those assesses whose cases were the subject matter of the decisions which have been referred to by CEGAT.

4. Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. Observations of Courts are neither to be read as Euclid's theorems nor as provisions of the statute and that too taken out of their context. These observations must be read in the context in which theyappear to have been stated. Judgments of Courts are not to be construed as statutes. To interpret words, phrases and provisions of a statute, it may become necessary for judges to embark into lengthy discussions but the discussion is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments. They interpret words of statutes; their words are not to be interpreted as statutes. In *London Graving Dock Co. Ltd. V. Horton*[5] , Lord Mac Dermot observed:

> "The matter cannot, of course, be settled merely by treating the ipsissima vertra of Willes, J as though they were part of an Act of Parliament and applying the rules of interpretation appropriate thereto. This is not to detract from the great weight to be given to the language actually used by that most distinguished judge."
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> In *Home Office v. Dorset Yacht Co.*[6] Lord Reid said, "Lord Atkin's speech.....is not to be treated as if it was a statute definition It will require qualification in new circumstances." *Megarry, J*[7] in observed: "One must not, of course, construe even a reserved judgment of Russell L.J. as if it were an Act of Parliament." And, in *Herrington v. British Railways Board*[8] Lord Morris said:
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> "There is always peril in treating the words of a speech or judgment as though they are words in a legislative enactment, and it is to be remembered that judicial utterances made in the setting of the facts of a particular case."

5. Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases. Disposal of cases by blindly placing reliance on a decision is not proper. The following words of Lord Denning in the matter of applying precedents have become locus classicus:

> "Each case depends on its own facts and a close similarity between one case and another is not enough because even a single significant detail may alter the entire aspect, in deciding such cases, one should avoid the temptation to decide cases (as said by Cordozo) by matching the colour of one case against the colour of another. To

decide therefore, on which side of the line a case falls, the broad resemblance to another case is not at all decisive."

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"Precedent should be followed only so far as it marks the path of justice, but you must cut the dead wood and trim off the side branches else you will find yourself lost in thickets and branches. My plea is to keep the path to justice clear of obstructions which could impede it."

6. Since the factual position has not been analysed in detail, disposal of appeals by mere reference to decisions, was not the proper way to deal with the appeals. The CEGAT also does not appear to have dealt with the relevance and applicability of ITC's case (supra) on which strong reliancehas been placed by learned Solicitor General. The CEGAT ought to have examined the cases individually and the articles involved. By clubbing all the cases together and without analyzing the special features of each case disposing of the appeals in the manner done was not proper. In the circumstances, we set aside the impugned judgment in each case and remit the matter to CEGAT presently known as Customs, Excise & Service Tax Appellate Tribunal (in short `CESTAT') to be dealt with by the appropriate Bench. In view of the aforesaid order there is no need to answer the reference made.

7. Since the matters are pending since long, we request the CESTAT to dispose of the appeals as early as possible preferably by the end of February, 2009.

8. The appeals are accordingly disposed of.

[1](1994 Suppl. (3) SCC 293) *[2](1997 (10) SCC 564)* *[3](1997 (1) SCC 262)* *[4](JT 1998 (8) SC 527)*
[5](1951 AC 737 at p.761) *[6](1970 (2) All ER 294)* *[7](1971) 1 WLR 1062* *[8](1972 (2) WLR 537)*