

Geep Industrial Syndicate Limited vs Union Of India (Uoi) And Ors. on 13 November, 1992

Equivalent citations: 1992(3)SCALE254, 1995SUPP(4)SCC442, AIRONLINE 1992 SC 192

Author: M.H. Kania

Bench: M.H. Kania, N.M. Kasliwal, N.P. Singh

JUDGMENT

M.H. Kania, CJI

1. These appeals are against the Judgment of a Division Bench of the Allahabad High Court in Writ Petition No. 370 of 1976 connected with Writ Petition No. 373 of 1976. The appeals can be shortly disposed of.

2. The appellant is a manufacturer of dry cell batteries. Zinc cans, manufactured out of Zinc ingots, are needed for the manufacture of dry cell batteries. The process by which the said zinc cans are manufactured involves the melting of zinc ingots purchased by the appellant in a furnace and then pressing the same into moulds to form zinc slabs. These slabs are heated and rolled into a flat form with the help of rollers out of which gallops are punched. The question 40 before us is whether the flat forms rolled out from zinc ingots by the appellant are liable to the payment of excise duty. The description of the commodity in question given by the High Court shows that they are rough rolled flat forms. In our opinion, in order that these products can be subjected to the levy of excise duty, decision must be arrived at that these rough rolled flat forms were marketable commodities. It appears that the tribunal and the lower authorities 45 did not consider the evidence on record in order to examine the question whether the said products were marketable commodities. The High Court judgment clearly states that the revisional authority did not deal with the question as to whether rough rolled flat form were marketable commodities or not. The High Court also did not enter into the question whether the said products were marketable commodities or not in view of the decision of a Division Bench of the Allahabad High Court in Union of India v. Union Carbide India Ltd. reported in 1972 A.L.J. 451. We finds that the said judgment of the Allahabad High Court has been reversed by this Court in Union Carbide India Ltd. v. Union of India and Ors. (). In these circumstances, we set aside the impugned order and remand the case to the Central Excise Gold Control and Appellate Tribunal (CEGAT) to examine the evidence on record and determine whether the products in question were marketable commodities. It is clarified that the Tribunal will determine this question on the basis of evidence already on record and neither party will be permitted to lead further evidence. The Tribunal is directed to decide the case within four months of the receipt of this order by the Registrar of the Tribunal. We may clarify that the question of marketability of the products in question was the only question argued before us and the Tribunal is not called upon to go into any other question. Interim orders passed so far will continue unless

varied by the Tribunal.

3. Appeals are disposed of with no order as to costs.