

Supreme Court of India

Ceakay Rubber Industries vs Collector Of Central Excise, ... on 7 November, 1996

Equivalent citations: 1996 (88) ELT 634 SC, (1997) 10 SCC 545

Bench: S Bharucha, K Venkataswami

ORDER S.P. Bharucha and K. Venkataswami, JJ

1. The question in this appeal against the judgment of the Customs, Excise and Gold (Control) Appellate Tribunal is whether the provisions of Rule 9(2) were properly attracted to the appellants' case.
2. The majority view of the Tribunal was that the appellants had not even disclosed the manufacture and user of the article in question, though classification lists had been filed in relation to other articles manufactured by them; this, despite the fact that the relevant form required that particulars of other goods produced or manufactured should be set out. Eight articles were listed but there was no mention of the article in question. The majority, therefore, took the view that this was a clear case on facts that even the manufacture of the article or its user - was not brought to the notice of the Excise authorities.
3. No doubt, the learned Single member took a different view, having regard to his reading of the findings of the Appellate Collector and certain pleadings in a writ petition between the parties in the Kerala High Court.
4. We will not go into questions of fact. The majority view of the Tribunal, based upon material, being that there had been clandestine removal of the article in question, the provisions of Rule 9(1) were breached and, therefore, a notice under Rule 9(2) was competent.
5. The appeal is, accordingly, dismissed, with no order as to costs.