

Supreme Court of India

Collector Of Central Excise, New ... vs Bhiwani Textile Mills on 3 October, 1996

Equivalent citations: 2000 (72) ECC 249, 1996 (88) ELT 639 SC, (1997) 10 SCC 522

Bench: S Bharucha, S Majmudar

ORDER S.P. Bharucha and S.B. Majmudar, JJ.

This appeal against the order of the Central Excise and Gold (Control) Appellate Tribunal covers two aspects.

2. The aspect of classification is covered against the respondents, it is fairly stated, by the decision of this Court in Collector of Central Excise v. Rajasthan Spg. Wvg. Mills Ltd. 1993 Supple. (1) SCC 420. To that extent, the order of the Tribunal must be upheld. (CEGAT in its order in question has held that Blended yarn containing polyester, viscose and cotton in the proportion of 48%, 47% and 5% respectively is classifiable under Tariff Item 68 of the erstwhile Central Excise Tariff and not under Item 18 III. *ibid* : Ed.).

3. The other aspect is of the demand for duty. The demand was made on 17th March, 1980. The clearances were made from 26th July, 1979 to 24th January, 1980. There was no proposal for modification of the classification for this period. It was only on 25th January, 1980, that the proposal was mooted. The decision of this Court in Union of India and Ors. v. Madhumilan Syntex Pvt. Ltd. covers the case against the appellant.

4. The result is that although the appellant succeeds on the aspect of classification, he shall not be able to enforce the demand made by the said notice. The appeal is allowed to the aforesaid extent. There shall be no order as to costs.