

Supreme Court of India

Marco Textiles vs Union Of India (Uoi) And Ors. on 16 February, 1993

Equivalent citations: 1996 (83) ELT 17 SC, 1995 Supp (3) SCC 174

Bench: K Singh, N Kasliwal

ORDER Kuldip Singh and N.M. Kasliwal, JJ.

1. The question before the authorities under the Central Excise Act, 1944 (the Act) was whether "tufted fabric" manufactured by the appellant was "furnishing fabric" and as such liable to Central Excise duty under Tariff Item 19(1)(i) 1st Schedule to the Act. The Assistant Collector came to the conclusion that the 'tufted fabric' was 'furnishing fabric'. The appeal filed by the appellant was dismissed by the Collector. The Central Government as revisional authority upheld the findings of the Assistant Collector and that of the Collector in the following words :

The Government of India observes that tufting is not embroidering and it is a distinct process of manufacture from a base fabric, handloom or otherwise. In the process of tufting, extra yarn is added in rounded bunches with a mechanical process. This could be done on looms in an integrated manner or separately on the fabric by sewing machines. In this case the goods were cleared without assessment; Rule 10 Central Excise Rules is not applicable in this case; Rule 9(2) is applicable.

2. We have heard Mr. Dholakia, learned Senior Advocate appearing for the appellant. We do not agree with him that the 'tufted fabric', the sample of which has been shown to us in Court, is not 'furnishing fabric' and is only embroidered fabric. We see no infirmity in the reasoning and conclusions reached by the Assistant Collector/Collector as upheld by Central Government. We also do not find any material on the record to show that the appellant bona fide believed that the goods manufactured by it were embroidered fabric and as such entitled to exemption under law. We, therefore, uphold the findings of the courts below that Rule 9(2) of the Central Excise Rules, 1944 was applicable and as such the recovery was not barred by limitation. The appeal is dismissed. No costs.