

THE UNION OF INDIA AND ORS.

v.

M/S. J.M.A. INDUSTRIES

MARCH 28, 1995

[R.M. SAHAI AND S.B. MAJMUDAR, JJ.]

*Central Excises and Salt Act, 1944:*

*Tariff Item 34A(As amended in 1979—Item 61 (As introduced in 1981)—Scope of—Expression ‘Electric Lighting Fittings’—Interpretation of—‘Switches, Dippers and Bulb Holders’ used in Motor Vehicles—Held not covered by Entries 34A and 61.*

The respondent, which was manufacturing light switches, dipper switches and bulb holders exclusively for use in motor vehicles, filed a Writ petition in the High Court challenging a notice issued by the Excise department levying duty on the aforesaid items under Tariff Item 61. The High Court held that the goods in question were not covered by Tariff Item 61. Revenue preferred an appeal to this Court.

Dismissing the appeal, this Court

**HELD : 1.** The result of the amendment of Entry 34-A was that apart from the goods specified therein which were 15 in number, the other items stood excluded from levy of excise duty. This entry does not mention switches, dipper switches or bulb holder. Therefore, all those articles, including the one mentioned above if they are part or parts and accessories of motor vehicles, then they were not liable to pay any duty on it. [21-B]

**2.** The expression ‘electric lighting fittings’ is normally understood in context with the household. The dippers and switches manufactured for use in cars are not understood either in the trade circle or in common parlance as electric lighting fittings. It is true that the words ‘switches, plugs and sockets’ have been widened by use of the expression ‘all kinds’, but the words used have to take colour from the genesis of the entry, that is, electric lighting fittings. Since the main entry deals with electric lighting fittings in the households, the switches and dippers manufactured by the respondent for exclusive use in motor vehicles cannot be said to be covered by entry 61. [21-G-H, 22-A]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 753 of 1988.

From the Judgment and Order dated 8.1.87 of the Delhi High Court in C.W.P. No. 921 of 1982.

A.K. Ganguli, P. Narsiman and V.K. Verma with him for the Appellants.

M. G. Ramachandran and Pramod Goyal for the Respondent.

The following Order of the Court was delivered :

How should the expression 'Electric Lighting Fittings' in Tariff Item 61 be interpreted is the short question that arises for consideration in this appeal directed against the judgment and order of the Delhi High Court allowing the writ petition filed under Article 226 of the Constitution of India and quashing the notice issued to the appellant for classifying the electric switches, dippers and bulb holders manufactured by it for cars under Tariff Item 61.

The respondent is engaged in the business of manufacturing various parts and accessories for motor vehicles. It filed a writ petition in the High Court challenging the notice issued by the Department for levying duty on the item manufactured by the respondent under Tariff Item 61. The High Court after considering the matter held that in common parlance the goods manufactured by the respondent cannot be construed to be covered under Tariff Item, 61 as the respondent was a manufacturer solely of motor vehicle parts.

Tariff Item 34A in Schedule I to the Central Excises & Salt Act, 1944 has been amended from time to time. The rate of the duty levied under the item on parts and accessories not elsewhere specified of motor vehicles and tractors including trailers was 20% *ad valorem*. This notification was amended in 1979. The amendment specified various goods to be parts and accessories of motor vehicles. The earlier entry read as under :

"Parts and accessories not elsewhere specified of motor vehicles and tractors including trailers".

The amended entry since 1979 reads as under :

"Parts and accessories of motor vehicles and tractors including trailers, the following, namely".

The result of the amendment and the addition of the words 'following namely', was that apart from the goods specified in Item No. 34A which were 15 in number, the other items stood excluded from levy of excise duty. The entry mentions 15 items, but it does not mention switches, dipper switches or bulb holders. Therefore, all those articles, including the one mentioned above if they are part of parts and accessories of motor vehicles, then they were not liable to pay any duty on it.

Tariff Item 61 reads as under :

| 61. ELECTRIC LIGHTING FITTINGS |  |   |
|--------------------------------|--|---|
| Tariff Item No.                | Description of goods   | Rates of duty                                     |
| 61                             | Electric Lighting Fittings namely :  | 20% <i>ad valorem</i> (Basic)                     |
|                                | Switches, plugs and sockets, all kinds; chokes and starters for flourescent tubes. | 10% of the basic duty chargeable [Special Excise] |

The respondent manufactured light switches, dipper switches and bulb holders exclusively for use in motor vehicles. The classification list of the respondent was approved by the Department. It was paying duty under Item No. 68. In 1981, however, when Tariff Item No. 61 was introduced, the respondent was directed to obtain the requisite licence for the manufacture of the said goods under the aforesaid item. The question, therefore, is whether the goods manufactured by the respondent for use in motor vehicles can be said to be covered in Tariff Item 61. The Item has been extracted above. The expression 'electric lighting fittings, is normally understood in context with the household. The dippers and switches manufactured for use in case are not understood either in the trade circle or in common parlance as electric lighting fittings. It is true that the words 'switches, plugs and sockets' have been widened by use of the expression 'all kinds', but the words used have to take colour from the genesis of the entry, that is, electric lighting fittings. Since the main or the principal entry

deals with electric lighting fittings in the households, the switches and dippers manufactured by the respondent for exclusive use in motor vehicles cannot be said to be covered in the aforesaid entry. The view taken by the High Court, therefore, appears to be well founded in law.

In the result, this appeal fails and is dismissed. But there shall be no order as to costs.

T.N.A.

Appeal dismissed.