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Commissioner of Central Excise Vs. Customs, Excise and Gold (Control) Appellate Tribunal, (South Zonal Bench) and Sulochana Cotton Spinning Mills (P) Ltd.

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Court : Chennai

Decided On : Mar-10-2005

Reported in : 2006(203)ELT20(Mad)

Judge : Markandey Katju, C.J. and ;Prabha Sridevan, J.

Acts : [Central Excise Act, 1944](#) - Sections 35H(1)

Appeal No. : Reference Case Petition No. 48 of 2002

Appellant : Commissioner of Central Excise

Respondent : Customs, Excise and Gold (Control) Appellate Tribunal, (South Zonal Bench) and Sulochana Cotton Spin

Advocate for Def. : K. Jayachandran, Adv. for ;S. Kesavan, Adv. for Respondent No. 2

Advocate for Pet/Ap. : K. Veeraraghavan, ACGSC

Disposition : Application dismissed

Judgement :

ORDER

Markandey Katju, C.J.

1. Heard the learned counsel for the parties. The question sought to be raised under section 35H of the Central Excise Act is as follows:-

'Whether the Hon'ble CEGAT is correct in holding that resultant product is not cotton carded or combed but blended cotton when note 2(A) to section XI of the Central Excise Tariff Act, 1985 clearly states that a mixture of two or more textile materials are to be classified as if consisting wholly of that one textile material which predominates by weight over any other single textile material.'

2. Learned counsel for the assessee has rightly pointed out that this question relates to classification and hence under section 35L of the Central Excise Act an appeal lies only to the Supreme Court and not to the High Court. We agree with the said submission and hence we dismiss this application.

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