i.T.C. Ltd. Vs. Collector of Central Excise and anr.

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Court : Chennai

Decided On : Mar-05-1993

Reported in : 1993(43)ECC98

Judge : Venkataswami, J.

Appeal No. : Writ Petitions Nos. 4552, 4553, 4588 and 4589/87

Appellant : i.T.C. Ltd.

Respondent : Collector of Central Excise and anr.

Judgement :
ORDER

Venkataswami, J.

1. In all these cases, the point raised for consideration is covered by a Division Bench Judgment of this Court reported in Union of India v. Asia Tobacco Co. Ltd. : [1992]196ITR318(Mad) and the Division Bench has held that the notification issued under Section 25 of the Act to become effective and enforceable required to be published and the publication means not only printing it, but also making it known to the public in the sense of making available copy of the Notification for sale to the public. In the cases on hand the date of notification, when it was made available and other details are given as below:--

No. Notification involved with date Date when madevailable to the public

284/82 dated 30.11.82 08.12.92 [sic 82?]4553/87 - do - - do -4588/87 100/85 dated 25.03.85 15.04.854589/87 201/85 dated 02.09.85 19.09.85

The case of the revenue was that it is entitled to enforce the Notification from the date of Notification notwithstanding the fact that the same was not available to the public. But that contention cannot be accepted in view of the above judgment of the Division Bench.

2. Mr. K. Jayachandran, learned Additional Central Government Standing Counsel however states that the revenue has taken up the matter to the Supreme Court, against the abovesaid Division Bench judgment. But as on date I am bound by the Division Bench Judgment. Accordingly, applying the ratio of the Division Bench Judgment I hold that the orders impugned are liable to be quashed and accordingly, they are quashed.

3. However, on the question of granting refund, the matters will have to be remitted back to the Assistant Collector of concerned Division, who will consider in the light of Section 11-B of the Central Excise Act and also in the light of the ratio laid down in the Division Bench judgment above referred to. The writ petitions are accordingly disposed of. No costs.