

PETITIONER:
COLLECTOR OF CUSTOMS & CENTRAL EXCISE & ORS.

Vs.

RESPONDENT:
M/S. LETHRAJ JESSUMAL & SONS & ANR.

DATE OF JUDGMENT: 07/02/1996

BENCH:
BHARUCHA S.P. (J)
BENCH:
BHARUCHA S.P. (J)
KIRPAL B.N. (J)

CITATION:
1996 SCC (7) 489 JT 1996 (3) 20
1996 SCALE (2) 33

ACT:

HEADNOTE:

JUDGMENT:

O R D E R

The appeal upon certificate impugns a judgment of a Division Bench of the Karnataka High Court.

The respondent had imported miniauthorised switches for use in electronic hearing aids which it manufactured. It appears that there are two types of such switches, the conventional one then being wafer switches and the other, newly innovated, being reed switches. It was the latter type of switch which was imported. The Customs authorities took the view that the respondents' import licence did not cover reed switches and they were not entitled to the concessional rate of import duty. The stand of the Customs authorities was, ultimately, assailed in the writ petition filed by the respondent before the High Court. The Writ petition was allowed. An appeal was preferred and it is the Judgment in appeal which is under challenge before us.

The High Court in the impugned order noted that the stand of the Customs authorities was that the words "switches, miniauthorised" as component parts of hearing aids should be understood to mean only those types of switches which were generally used in the manufacture of hearing aids at the time of publication of the Import Policy for the relevant year, namely 1977, and that these words could not be said to include any other type of switch even if such other type of switch could be used in the manufacture of hearing aids. The Division Bench observed, in our view, very rightly, that such an interpretation overlooked that industry was not static and that there was continuous technical progress therein. New processes and new methods developed from time to time and new material and components or types of components superseded others. It was unreasonable to give a static interpretation to words used in a tariff schedule ignoring the rapid march of technology. Having regard to the technical opinion that reed switches would improve the performance of hearing aids, the High

Court held that reed switches were covered by the tariff entry. The High Court also noted that it was not the case of the Customs authorities that the respondent was trying to divert the imported reed switches from the manufacture of hearing aids to another purpose.

We do not think that we can put it better. Progress cannot be stifled by an over-rigid interpretation of Import Policy or Customs tariff. Both must be read as they stand on the date of importation and whatever is reasonably covered thereby must be allowed to be imported regardless of the fact that it was not in existence or even contemplated when the policy or tariff was formulated.

The appeal is dismissed. The bank guarantee given by the respondent pursuant to the order of this Court dated 25.3.83 shall stand discharged. There shall be no order as to costs.

JUDIS