

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
CIVIL APPEAL NO(s). 4079-4080 OF 2003

COMMNR. OF CENTRAL EXCISE, INDORE Appellant (s)

VERSUS

M/S. GLOBUS STORES (P) LTD. & ANR. Respondent(s)

(With office report)

Date: 13/04/2011 These Appeals were called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE MUKUNDKAM SHARMA
HON'BLE MR. JUSTICE ANIL R. DAVE

For Appellant(s) Mr. P.P. Malhotra, ASG
Ms. Shalini Kumar, Adv.
Mr. Arijit Prasad, Adv.
Mr. B. Krishna Prasad, Adv.

For Respondent(s) Mr. V. Lakshmi Kumaran, Adv.
Mr. Alok Yadav, Adv.
Mr. Nikhil Singal, Adv.
for Mr.M.P.Devanath, Adv.

UPON hearing counsel the Court made the following
O R D E R

The appeals are dismissed leaving the parties to
bear their own costs in terms of the signed order.

(DEEPAK MANSUKHANI) (RENU DIWAN)
Court Master Court Master
(Signed order is placed on the file)
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

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O R D E R

These appeals are directed against the judgment and order
dated 16.7.2002 passed by CEGAT, New Delhi. In the aforesaid
judgment, while allowing the appeals of the appellant, reliance was

placed on the decision in the case of M/s. Sayaji Hotels Ltd. Vs.

C.C.E., Indore 2002(141) E.L.T. 765.

While relying on the ratio of

the aforesaid decision, the Tribunal also referred to the contents of

the circular of the Central Board of Excise and Customs which is

dated 15.01.2002. In the said circular, what was recorded by the

Central Board was to the following effect:-

"Refrigeration/air-conditioning plants. These are basically system comprising of compressors, ducting, pipings, insulators and sometime cooling towers etc. They are in the nature of system and are not machines as a whole. They come into existence only by assembly and connection of various components and parts. Though each component is dutiable, the refrigeration/air-conditioning systems as a whole cannot be considered to be excisable goods. Air-conditioning units, however, would continue to remain dutiable as per the central Excise Tariff."

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This Court while rendering the judgment in the case of

Commissioner of C.Ex., Indore vs. Viridi Brothers 2007(207) E.L.T. 321

relied upon aforesaid circular issued by the Central Board as also

various other decisions of this court. This Court held that

at the appeal filed by the Commissioner Excise, had no merit.

Case of M/s

Sayaji Hotels Ltd. was also one of the batch matter heard with the

case of Viridi Brothers(supra).

In the present appeals also, we are concerned with the air-conditioning plant which is the same good as that of Viridi

Brothers(supra). The learned counsel appearing for the appellant,

however, has drawn our attention to the decision of this court in

Commissioner of Central Excise, Ahmedabad Vs. Solid & C

Engineering Works 2010(252) E.L.T. 481.

In the said decision, this

court had considered the case of setting up of Asphalt Drum/Hot Mix

plant. Apart from the fact that the aforesaid good is different from

the good in question, even the circular which is referred to and

relied upon by this Court in the case of Viridi Brothers(Supra) was

not considered in the said decision as the subject matter was totally

different. Besides, the air-conditioning plant was an im-
movable

article whereas Asphalt drum/Hot mix plant is a movable article.

Therefore, in our considered opinion, the facts of both the cases are

different and, therefore, distinguishable.

For what is required to

be decided in the present case stands already decided by this court
in Viridi Brothers(supra), which applies to the case in hand with full

force.

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Therefore, following the aforesaid decision by Viridi

Brothers(supra), we dismiss these appeals but leave the parties to

bear their own costs.

.....J.
(DR. MUKUNDAKAM SHARMA)

.....J.
(ANIL R. DAVE)

NEW DELHI
APRIL 13, 2011