

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).793/2007

(Petition under Article 136 of the Constitution of India arising out of the Final order No. 185/FINAL ORDER/CUS/NBP/2006, dated 9.11.2006 passed by the Hon'ble Customs and Central Excise Settlement Commission in Settlement Application No. SC/WZ/CUS/103/2005)

M/S. ARIHANT OPTICS LTD. Petitioner(s)

VERSUS

UNION OF INDIA Respondent(s)

(With prayer for interim relief and office report)
SLP(C) NOS. 18905-18907 of 2007
(With prayer for interim relief)
SLP(C) NOS. 18908-18910 of 2007
(With prayer for interim relief and office report)
WITH SLP(C) NO. 17671 of 2007
(With appln. For permission to place addl. Documents on record and with prayer for interim relief and office report)
SLP(C) NOS. 960-961 of 2008
(With prayer for interim relief and office report)

Date: 04/01/2011 These Petitions were called on for hearing today.

CORAM :

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

For Petitioner(s)

Mr. Ajay Pal, Adv.

Mr. Piyush Kumar, Adv.
Mr. Abhinav Jain, Adv.
Mr. Shikha Sapra, Adv.
Ms. Abha R. Sharma, Adv.

Mr. Saurabh Kirpal, Adv.
Ms. Jyoti Taneja, Adv.

For Respondent(s)

Mr. K.L. Janjani, Adv.
Mr. R.P. Bhatt, Sr. Adv.
Mr. T.A. Khan, Adv.
Mr. Rachna Joshi Issar, Adv.
Mr. B. Krishna Prasad, Adv.

Mr. B.V. Balaram Das, Adv.

Mr. R.P. Bhatt, Sr. Adv.
Mr. F.A. Ayyubi, Adv.
Mr. M.I. Khairati, Adv.
Mr. Arvind Kumar Sharma, Adv.

Ms. Aprajita Singh, Adv.
Mr. Sanjay V. Kharde, Adv.
Ms. Asha Gopalan Nair, Adv.

Mr. Ravindra keshavrao Adsure, Adv.

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

SLP(C) NO. 793 of 2007

None appears for the petitioner when the matter is called out. In order to give the petitioner one more opportunity, to pursue this matter, let the matter be adjourned till 7.1.2011.

SLP(C) NO. 17671 of 2007
Re-notify on 7.1.2011.

SLP(C) NOS. 18905-18907 and 18908-18910 of 2007
Leave granted.
The appeals stand disposed of in terms of the signed order.

SLP(C) NOS. 960-961 of 2008

Leave granted.
The appeals stand disposed of in terms of the signed order.

(NEELAM GULATI) (RENU DIWAN)
SR.P.A. COURT MASTER
(Two signed orders are placed on the file)
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 41-43 OF 2011
(Arising out of SLP(C) NOS. 18905-18907 of 2007)

M/s. Sana International etc.Appellant

versus

Union of India & Ors.Respondents

WITH

CIVIL APPEAL Nos. 44-46 OF 2011
(Arising out of SLP(C) NOS. 18908-18910 of 2007)

O R D E R

Leave granted.

By this order, we propose to dispose of these appeals. On perusal of the record, we find that in these appeals what is under challenge is the order passed by the Settlement Commissioner. We find that the Settlement Commissioner has reduced the interest payable by the appellants herein to 10% by stating as follows:

"Interest @10% is to be paid for the delay in payment of duties. The interest is to be computed exclusive of the duty component of Rs.7,64,224/- as these goods

are still under seizure. Interest amount is to be paid within 30 days of receipt of the order. Interest in excess of 10% is waived."

Being aggrieved by the said reduction of interest only to 10% and not giving the benefit of total waiver of interest to the appellants, they preferred these appeals before this Court on which notice was issued. Counsel appearing for the appellants have stated that in a similar and connected matter decided by this Court in SLP(C) No. 21458 of 2007 titled as Yusuf Dhanani vs. Union of India & Ors., this Court has accepted the order of Settlement Commissioner of reduction of interest from 24% to 10% of the admitted dues. This Court in the said order did not interfere with the aforesaid reduction. In view of the aforesaid position, the counsel for the appellants have stated that he would also accept the decision of payment of 10% interest of the admitted dues. No petition is filed by the respondents against the said decision of the Settlement Commissioner. In that view of the matter nothing survives in these appeals. The appeals stand dismissed as not pressed in terms of the aforesaid order.

.....J
(Dr. MUKUNDAKAM SHARMA)

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

NEW DELHI,
JANUARY 4, 2011

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL Nos. 47-48 OF 2011
(Arising out of SLP(C) NOS. 960-961 of 2008)

Core Healthcare Ltd.Appellant
(Now known as Nirma Ltd.)

versus

Commissioner of Customs, MumbaiRespondent

O R D E R

Leave granted.

By this order, we propose to dispose of these appeals. On perusal of the record, we find that in these appeals what is under challenge is the order passed by the Settlement Commissioner. We find that the Settlement Commissioner has reduced the interest payable by the appellants herein to 10% by stating as follows:

"The non-payment of duty covers a substantial

period and the applicant by not paying the duty, did derive financial accommodation in these cases. Therefore, interest will have to be paid. Since the applicant has come before the Commission on its own accord without waiting for the department to issue SCNs, paid the admitted duty liability as per the directions of the Commission/Hon'ble Gujarat High Court and has fully cooperated in the proceedings before the Commission, we order the applicant to pay simple interest @10% p.a.(excluding C.V.D. Portion) from the date the duty was due till it was paid. The Revenue shall calculate the interest due and intimate it within 15 days of receipt of this order to the applicant, who shall deposit the same within the next 15 days and report compliance to the Commission and the Revenue. For its good conduct in the proceedings we grant immunity from interest in excess of 10% per annum."

Being aggrieved by the said reduction of interest only to 10% and not giving the benefit of total waiver of interest to the appellants, they preferred these appeals before this Court on which notice was issued. Counsel appearing for the appellants have stated that in a similar and connected matter decided by this Court in SLP(C) No. 21458 of 2007 titled as Yusuf Dhanani vs. Union of India & Ors., this Court has accepted the order of Settlement Commissioner of reduction of interest from 24% to 10% of the admitted dues. This Court in the said order did not interfere with the aforesaid reduction. In view of the aforesaid position, the counsel for the appellants have stated that he would also accept the decision of payment of 10% interest of the admitted dues. No petition is filed by the respondents against the said decision of the Settlement Commissioner. In that view of the matter nothing survives in these appeals. The appeals stand dismissed as not pressed in terms of the aforesaid order.

.....J
(Dr. MUKUNDAKAM SHARMA)

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

NEW DELHI,
JANUARY 4, 2011