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C.A.No. 1404-1409 OF 1999  
.UP 10 2; Draft, smtst; -n -PA4 -dFX-NORMAL -y -e; dumbp  
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ITEM NO.111 COURT NO. 2 SECTION IIIA

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal Nos.1404-1409/1999 @@  
AA

ITC Bhadrachalam Paper Boards Ltd. Appellant (s)

VERSUS

State of A.P. Respondent (s)  
(With office report)

With C.A.Nos.1410-1413/1999

Date : 21/03/2001 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.P. BHARUCHA  
HON'BLE MR. JUSTICE N. SANTOSH HEGDE  
HON'BLE MR. JUSTICE Y.K. SABHARWAL

For Appellant (s) Mr. M.L. Verma, Sr.Adv.  
Mr. Kailash Vasdev, Sr.Adv.  
M/s. Devadatt Kamat, S.K.Shandilya, Advs.  
Mrs. V.D. Khanna, Adv.

For Respondent (s) Mr. T. Anil Kumar, Adv.  
Mr. P. Venkat Reddy, Adv.

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

.....L.....I.....T.....T.....T.....T.....T.....T.....J  
.SP2

The civil appeals are partly allowed.  
No order as to costs.

.SP1 (N. Annapurna) (Shelly Sengupta)  
Court Master Court Master

(Signed order is placed on the file.)

.PA  
L.....T.....T.....T.....T.....T.....T.....T.....T.....J  
IN THE SUPREME COURT OF INDIA@@  
AA

CIVIL APPELLATE JURISDICTION@@  
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CIVIL APPEAL NOS.1404-1409 OF 1999@@  
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ITC Bhadrachalam Paper Boards Ltd. ....Appellant(s)

versus

State of A.P. ...Respondent(s)

With C.A.Nos.1410-1413/1999@@  
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O R D E R@@  
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L.....L.....I.....T.....T.....T.....T.....T.....T.....J  
.SP2

We have heard learned counsel and find no good reason to differ from the view of the High Court in regard to the first question which reads thus:

.SP1

"1) Whether coal and coal-ash (cinder) are to be treated as the same commodity or as different commodities for the purpose of taxation under the A.P.G.S.T.Act, 1957?"

.SP2

Insofar as the second question is concerned, we take a different view. The second question reads thus:

.SP1

"2) Whether coal-ash is a product of the petitioner's industrial unit and whether the sale of 'coal-ash' by the petitioner is eligible for exemption under G.O.Ms.No.606, dated 9-4-1981?"

.SP2

The High Court was of the view that the main production activity of the appellant was the manufacture of paper and paper ...2/-

.PA

boards, that coal-ash was only the left-over residue after burning coal as fuel in the manufacture of paper and paper boards, and that, therefore, the appellant was not entitled to the exemption on the sale of coal-ash under G.O.Ms.No.606, dated 9th April, 1981 as the coal-ash was not a product of the appellant. The aforesaid order gives "complete exemption to the products of the industry from sales tax for a limited period of five years." The coal-ash that is produced as a result of the burning of coal as fuel is a product of the appellant-industry though it might not be the principal product for which the industry was established. Even so, being a product of the industry, it is entitled to the exemption given by the said order. This second question, therefore, must be answered in favour of the appellant.

Given these two answers, the consideration of the third and fourth questions does not arise.

The civil appeals are allowed to the extent aforesaid.  
No order as to costs.

.SP1

.....J.  
(S.P. Bharucha)

.....J.  
(N. Santosh Hegde)

.....J.  
(Y.K. Sabharwal)

New Delhi,  
March 21, 2001.