

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. 2616 OF 2001

M/S RAMNIRANJAN K.TOUR. SERVICES P. LTD.

Appellant(s)

VERSUS

COMMNR. OF CUSTOMS, NEW DELHI

Respondent(s)

(with office report)

with

CIVIL APPEAL NOS.7786-7787/2001

(with application for stay and with office report)

Date: 19/04/2006 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHAN

HON'BLE MR. JUSTICE MARKANDEY KATJU

For Appellant(s)

in CA 2616/2001 &

Mr. S.Ganesh, Sr. Adv.

for respondents

Mr. S.R.Setia, Adv.

in CA 7786-87/2001

For Appellant(s)

Mr. B.B.Singh, Adv.

in CA 7786-7787/2001

Mr. Kumar Rajesh Singh, Adv.

Mr. Raghunath Kapoor, Adv.

For Respondent(s)

RR-Ex-Parte

UPON hearing counsel the Court made the following

O R D E R

Civil Appeal No. 2616 of 2001 has been filed by the assessee whereas Civil Appeal Nos.7786-87 of 2001 have been filed by the department.

The point involved in this case is regarding the availability of the benefit of the exemption notification No. 64/93 dated 28.2.1993.

In Civil Appeal No. 2616 of 2001, the Tribunal has distinguished on facts the judgment of this Court in Thermax Private Limited vs. Collector of Customs(Bombay) reported in (1992) 4 SCC 440 = 1992 (61) ELT 352 whereas in Civil Appeal Nos. 7786-87 of 2001, another Bench of the Tribunal relying upon the decision of this Court in the case of Thermax Private Limited's case (supra) has granted the relief to the assessee.

The correctness of the judgment in Thermax Private Limited's case (supra) has been doubted by another Bench of co-equal strength in the case of Commissioner of Central Excise, New Delhi vs. Hari Chand Shri Gopal & Others reported in (2005) 8 SCC 164 = 2005 (188) ELT 353 and the case has been referred to a larger Bench.

Adjourned.

To be listed soon after the decision in the case of Commissioner of Central Excise, New Delhi vs. Hari Chand

Shri Gopal & Others reported in (2005) 8 SCC 164 = 2005
(188) ELT 353 by the larger Bench.

(Parveen Kr. Chawla)

Court Master

(Kanwal Singh)

Court Master