

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. 2151 OF 2001

COMMNR. OF CENTRAL EXCISE, CALCUTTA
)

Appellant(s)

VERSUS

M/S INDIAN RAYON & INDUSTRIES LIMITED
)

Respondent(s)

(with application for stay and with office report)

WITH

CIVIL APPEAL NO. 3665 OF 2003

(with application for ex-parte stay and with office report)

Date: 05/04/2006 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHAN

HON'BLE MR. JUSTICE LOKESHWAR SINGH PANTA

For Appellant(s)

Mr. T.S.Deobia, Sr. Adv.

Mr. Mohit Chaudhary, Adv.for

Mr. P.Parmeswaran, Adv.

For Respondent(s)

Mr. S.K. Bagaria, Sr. Adv.

Mr. Rajendra Singhvi, Adv.

Mrs. Madhur Dadlani, Adv.for

Mr. Ashok Kumar Singh, Adv.

UPON hearing counsel the Court made the following

O R D E R

The Appeals are dismissed.

(Parveen Kr. Chawla)

(Kanwal Singh)

Court Master

Court Master

[Signed Order is placed on the File]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.2151 OF 2001

Commissioner of Central Excise, Calcutta

..Appellant

Versus

M/s Indian Rayon & Industries Ltd.

..Respondents

WITH

CIVIL APPEAL NO. 3665 OF 2003

O R D E R

The Tribunal(CEGAT) has accepted the appeal filed by the respondent-
assessee, relying upon its earlier decision between the parties in Commissioner of
Central Excise, Calcutta vs. M/s Indian Rayon & Industries Limited reported in 1999
(107) ELT 273 (T) in which while considering the benefit of Notification No. 57/85
relating to earlier period, which is identically worded to the notifications involved in
the present appeals, had granted a similar relief. Revenue thereafter fi
led a

Reference Application against the above order before the Tribunal as per the

provisions of law then existing which was also dismissed.

Thereafter instead of filing the appeal in this Court the appellant filed a

Reference Application in the High Court.

At the time of admission of Civil Appeal No. 2151 of 2001 on 3.4.2001,

learned Solicitor General stated that the reference application filed before the High

Court (under mistake) shall be withdrawn and steps taken to file an appeal in this

Court. Mr. T.S.Deobia, learned senior advocate appearing for the Revenue after

verifying states that no appeal has been filed against the earlier order passed by the

Tribunal, referred to above.

Since the Revenue has accepted the decision rendered by the Tribunal in

the earlier proceedings between the parties and the same has become final, the

Revenue is precluded from taking a different stand in the present appeals as per law

laid down by this Court in a number of cases. See Collector of Central Excise, Pune

vs. Tata Engineering & Locomotives Co. Ltd. reported in (2003) 11 SCC 193; Berger

Paints India Limited vs. Commissioner of Income Tax, Calcutta reported in (2004)

12 SCC 42; Birla Corporation Limited vs. Commissioner of Central Excise reported

in (2005) 6 SCC 95 = 2005 (186) ELT 266(SC); and Jayaswals Neco Limited vs.

Commissioner of Central Excise, Nagpur reported in 2006(195) ELT 142(SC).

Hence, without going into the merits of the dispute, we dismiss these

appeals with no order as to costs.

.....J.

NEW DELHI;
.....J.

APRIL 05, 2006.

.....

[ASHOK BHAN]

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[LOKESHWAR SINGH PANTA]