

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). 1802/2005

COMMISSIONER CENTRAL EXCISE, VISHAKHAPAT

Appellant(s)

VERSUS

M/S. ANDHRA PRADESH PAPER MILLS LTD.

Respondent(s)

WITH

C.A. No. 7255/2005

(With Office Report)

C.A. No. 4489/2008

(With Office Report)

Date : 05/05/2015 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. SIKRI

HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN

For Appellant(s)

Mr. Jaideep Gupta, Sr. Adv.

Ms. Shirin Khajuria, Adv.

Mr. Rupesh Kumar, Adv.

Ms. Sunita Rani Singh, Adv.

Mrs. Anil Katiyar, Adv.

Mr. R. S. Suri, Adv.

Mr. B. V. Balaram Das, Adv.

For Respondent(s)

Mr. V. Lakshmikumaran, Adv.

Mr. M. P. Devanath, Adv.

Mr. P. N. Gupta, Adv.

Mr. Aditya Bhattacharya, Adv.

Mr. Vivek Sharma, Adv.

Mr. Hemant Bajaj, Adv.

Mr. Anandh K., Adv.

Mr. Jay Savla, Adv.

Ms. Renuka Mishra, Adv.

Mr. Ravi Mishra, Adv.

UPON hearing the counsel the Court made the following
O R D E RWe accordingly set aside the judgment of the Tribunal
and allow these appeals. while upholding the order of the

adjudicating authority insofar as the payment of duty is concerned, we set aside the order as far as penalty is concerned.

(SUMAN WADHWA)
AR-cum-PS

(SUMAN JAIN)
COURT MASTER

Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 1802 OF 2005

Commnr. Of Central Excise, Visakhapatnam-III Appellant(s)

VERSUS

M/s. Andhra Pradesh Paper Mills Ltd. Respondent(s)

WITH

CIVIL APPEAL NO. 7255/2005 AND 4489/2008

O R D E R

Insofar as the issue on merits is concerned, we find that it squarely stands covered in favour of the Revenue by the judgment of this Court in Amrit Paper vs. Commnr. Of Central Excise reported in 2006 (6) SCC 345. Therefore, these appeals have to be allowed. We accordingly set aside the judgment of the Tribunal and allow these appeals.

However, in two of these appeals we find that the adjudicating authority had misconceived the penalty as well. In the peculiar facts of this case, particularly when there was conflict of judicial opinion before the issue stood settled by the judgment of this Court in the aforesaid case, it is not a case where penalty should be imposed by the respondent. Therefore, while upholding the order of the adjudicating authority insofar as the payment of duty is concerned, we set aside the order as far as penalty is concerned.

.....J.
(A.K.SIKRI)

.....J.
(ROHINTON FALI NARIMAN)

New Delhi;
Date: 5.5.2015.

