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C.A.No. 5470 OF 2000

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ITEM No.103

Court No. 8

SECTION II

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 No. 5470/2000

Collector of Central Excise, Hyderabad

Appellant (s)

VERSUS

M/s. Divya Enterprises Ltd.  
(With Office Report)

Respondent (s)

Date : 05/03/2003 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.N. VARIAVA  
HON'BLE MR. JUSTICE B.N. AGRAWAL

For Appellant (s)

Mr. M.L . Verma, Sr. Adv.  
Mr. Dileep Tandon, Adv.  
Mr. B.K. Prasad, Adv.

For Respondent (s)

Mr. V. Lakshmikumaran, Adv.  
Mr. A.R. Madhav Rao, Adv.  
Mr. Vishwanath Shukla, Adv.  
Mr. A. Yadav, Adv.  
Mr. V. Balachandran, Adv.

UPON hearing counsel the Court made the following

O R D E R

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Heard learned counsel for the parties.  
Appeal stand disposed of by setting aside the impugned

order.

.SP1

Neelam (JASBIR SINGH )  
COURT MASTER  
(Signed order is placed on the file)

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5470 OF 2000 @@  
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Collector of Central Excise, ... Appellant (s)

Hyderabad

Versus

M/s. Divya Enterprises ltd.

... Respondent (s)

O R D E R@@  
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Heard the learned counsel for the parties.

We have seen Notification No. 65 of 1987 dated 1st March, 1987. In our view the interpretation given by the Tribunal cannot be sustained. The impugned order must be and is, therefore, set aside.

Under this Notification Terry towelling was exempted. However the terry-towelling fabric was not exempted. Respondents have paid duty on the exempted item i.e. on towels but duty has not been paid on the fabric. As the notification does not exempt fabrics, duty has to be paid on the fabric under the Heading " 5802.12". We, however, direct that the respondent will be given adjustment for the duty paid on the towels. If on calculation of duty, it is found that a higher amount has

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been paid than what is due on the fabric, then the claim for refund will be allowed. If on the other hand it is found that some duty has still to be paid then the respondent shall pay the duty.

We clarify that this order is applicable only for the period of the notification and not for any other period.

Appeal stands disposed of.

.SP1

.....J.  
( S.N. VARIAVA )

.....J.  
(B.N. AGRAWAL)

New Delhi,  
March 5, 2003.