

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). 4366-4369 OF 2003

COMMNR. OF CENTRAL EXCISE Appellant (s)

VERSUS

GEETA BRIGHT BAR WORKS P. LTD. & ORS. Respondent(s)

(With appln(s) for stay and office report)

Date: 13/04/2011 These Appeals were called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE MUKUNDAKAM SHARMA  
HON'BLE MR. JUSTICE ANIL R. DAVE

For Appellant(s) Mr. Rajiv Nanda, Adv.  
Mr. K. Swami, Adv.  
Ms. Shipra Ghose, Adv.  
for Mr. B.K. Prasad  
Mrs Anil Katiyar, Adv.

For Respondent(s) Mr. M.H. Patil, Adv.  
Mr.Sandeep Narain, Adv.  
Mr. Shri narain, Adv.  
M/S. S. Narain & Co., Adv.

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

The appeals are allowed in terms of the signed order.

(DEEPAK MANSUKHANI) (RENU DIWAN)  
Court Master Court Master  
(The signed order is placed on the file)  
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(s). 4366-4369 OF 2003

COMMNR. OF CENTRAL EXCISE Appellant (s)

VERSUS

GEETA BRIGHT BAR WORKS P. LTD. & ORS. Respondent(s)

O R D E R

These appeals are directed against the order dated 10.6.2002 passed by CEGAT allowing the appeal filed by the respondents holding that the order passed by the Commissioner is illegal and, therefore, the same is required to be set aside.

Our attention is drawn to the impugned judgment and order. a careful reading of the said judgment, we find that the Tribunal has

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failed to record any reasons or findings in support of its conclusion that the order passed by the Commissioner is illegal. In paragraph 2 of the judgment, facts of the cases are stated to the extent of the parties going through the different forums and, thereafter in paragraph 3 of the judgment, the submission of the parties have been recorded. In paragraph 4, the Tribunal has referred to and quoted HSL notes in Chapter 72 and in paragraph 5, what is recorded is extracted hereinbelow:-

"We have considered the judgments cited by the learned counsel and are of the view that the impugned order suffers legally and therefore set aside the impugned order and allow the appeals with consequential relief according to law."

It is thus crystal clear that there is no appreciation of the facts as also the law laid down by the Tribunal. The Tribunal has chosen to set aside a reasoned order passed by the Commissioner and while doing so, it was of utmost necessity for the Tribunal to record

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its reasons for disagreeing with the findings recorded by the Commissioner. In the show-cause notice, certain facts have been brought forth by the Department and the Commissioner also in his order has discussed the evidence on record. So far the decision of Vee Kayan Industries Vs. Collector of Central Excise, Chandigarh 1996(83) E.L.T. 262(S.C.) which was relied upon by the counsel appearing for the respondents herein before the Tribunal is concerned and about which reference is made in paragraph 3, was rendered by this Court particularly in view of absence and lack of any evidence which is clear on its reading. It clearly stated that in absence of any material to show that in commercial circle the bars and bright bars are different, the interference drawn by the Tribunal cannot be upheld.

Therefore, it was required for the Tribunal to discuss the evidence and thereafter come to a finding as to whether or not there was any manufacturing activity on the part of the respondents on the facts and the circumstances of the present case.

That being the position, we set aside the impugned judgment and order and remit the matter back to the Tribunal for fresh and de novo consideration of all the issues.

While doing so, the Tribunal shall record reasons for its decision. We also request the Tribunal to hear the appeal as expeditiously as possible.

It is needless to state that all the issues are kept upon for consideration and any evidence that may be furnished in support of the contention may be filed.

The appeals are allowed.

.....J.  
(DR. MUKUNDAKAM SHARMA)

.....J.  
(ANIL R. DAVE)

NEW DELHI  
APRIL 13, 2011