

C.A.No. 2767 OF 2000

ITEM NO. 101

COURT NO. 3

SECTION: III

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.2767 OF 2000@@
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KALYANI BREWERIES LTD. APPELLANT(S)

Versus

ASSTT. COLLECTOR OF CUSTOMS, CALCUTTA & ORS. RESPONDENT(S)

(With appln. for exemption from filing c/c of the impugned judgment
and amendment of cause title and office report)

Date: 11/10/2001 This appeal was called on for hearing today.

CORAM:

HON'BLE MR. JUSTICE B.N. KIRPAL
HON'BLE MR. JUSTICE N. SANTOSH HEGDE
HON'BLE MR. JUSTICE ASHOK BHAN

For Appellant(s) Mr. Joseph Vellapally, Sr. Adv.
Ms. Sushma Sharma, Adv.
Mr. Tarun Gulati, Adv.
Mr. Rajan Narain, Adv.
for M/s Law Consults, Advs.

For Respondent(s) Mr. M.L. Verma, Sr. Adv.
Mr. M. Gourishankar Murthy, Adv.
Mr. B. Krishna Prasad, Adv.

UPON hearing counsel, the Court made the following
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IA for amendment of cause title is allowed.
The Civil Appeal is dismissed.

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Kalyani. (S.L. GOYAL)@@
AA
COURT MASTER @@
A AA

(Signed Order is placed on the file.)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2767 OF 2000@@
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Kalyani Breweries Ltd. Appellant

Versus

Asstt. Collector of Customs, Calcutta & Ors. Respondents

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The only question involved in this case pertains to the interpretation of the notification issued under Section 25 of the Customs Act, 1962 granting certain exemption in respect of import of various goods including Automatic Bottle Labelling Machine. This exemption which has been granted is in respect of specified food processing/packaging machines.

The appellant had imported automatic bottle labelling machine in connection with the bottling and labelling of beer manufactured by them. Whereas the Single Judge of the High Court came to the conclusion that such a machine would be entitled to the exemption under the notification, the Division Bench, on the other hand, took a different view after referring to a decision of this Court in Commissioner of Central Excise Vs.@@
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Parle Exports (P) Ltd. 38 ELT 741, whereby interpreting@@
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an exemption notification it was held by this Court that soft drink base was not covered by the term "food preparation" and bearing in mind the purpose of the exemption notification it could not be contended that an expensive item like the same was intended to be given exemption at the cost of public exchequer. The Court held that automatic bottle labelling machines which are used in connection with labelling of beer bottles would not be entitled to the exemption. In coming to this conclusion, the High Court also took into consideration the provisions of Article 47 of the Constitution of India which contains the Directive Principles of State Policy whereby the State is to make endeavour to bring about prohibition of intoxicating drinks and drugs which are otherwise injurious to health except for medicinal

purposes. It is not in dispute that on the bottle of beer in view of alcoholic content a statutory warning is printed to the effect that the same is injurious for health. We agree with the High Court that, under the circumstances, beer per se cannot be regarded as a food article for the purpose of the said notification and,

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therefore, the machine in question would not be entitled to any exemption. We affirm the decision of the High Court and dismiss this appeal.

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.....J
(B.N. KIRPAL)

.....J
(N. SANTOSH HEGDE)

New Delhi,
October 11, 2001.

.....J
(ASHOK BHAN)