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C.A.No. 2793-2794 OF 2001

ITEM No.8

Court No. 3

SECTION III

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal.Nos.2793-2794/2001(For Preliminary Hearing)

COMMNR. OF CENTRAL EXCISE & CUSTOM, GOA

Appellant (s)

VERSUS

M/S. DEMPO ENGINEERING SERVICES

Respondent (s)

(With Appln(s). for stay)

Date : 30/04/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. KIRPAL

HON'BLE MRS. JUSTICE RUMA PAL

For Appellant (s)

Mr. Mukul Rohtagi, ASG
Ms. Nisha Bagchi, Adv.
Mr. B. Krishna Prasad, Adv.

For Respondent (s)

Mr. Dhruv Mehta, Adv.
Ms. Shobha, Mr. Saptarshi Ghosh and
Mr. S.K. Mehta, Advs.

UPON hearing counsel the Court made the following

O R D E R

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Leaving the question of law open, the appeals are dismissed in terms of the signed order.

(D.P. WALIA)
Court Master

(S.L. GOYAL)
Court Master

(Signed order is placed on the file)

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.2793-2794 OF 2001@@

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Commissioner of Central Excise & Customs, Goa ..Appellant(s)

vs.

M/s. Dempo Engineering Services

..Respondent(s)

O R D E R@@
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The question which arises in this case is : Whether the items fabricated at site in the construction of a factory building can be treated as goods/movable property for the levy of central excise duty ?

A Constitution Bench of this Court, in a bunch of cases disposed of on 19th April, 2001, has, without going into the correctness of the legal propositions in the orders under challenge, dismissed the civil appeals having regard to the facts of those cases. One of the cases in respect of which a civil appeal was so dismissed pertains to that of the respondent, namely, M/s. Dempo Engineering Services. This being so, even though a question of law does arise but in view of the order dated 19th April, 2001 whereby in the respondent's own case as the appeal has been dismissed by virtue of the facts of those cases, we do not entertain these appeals. These appeals are dismissed. Question of law is, however, left open.

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

New Delhi;
April 30, 2001

.....J.
(RUMA PAL)