

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

RECORD OF PROCEEDINGS

04

Civil Appeal Nos.2804-2806 of 20

COMMISSIONER OF CENTRAL EXCISE, MUMBAI  
Appellant(s)

VERSUS

ESSEL PROPACK LTD.  
Respondent(s)

(With applns. for stay and permission to file rejoinder affidavit and with office report)

With Special Leave Petition (C) Nos.2899-2900 of 2004

(With prayer for interim relief and office report)

Date : 11/10/2006 These Petitions were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C.K. THAKKER

HON'BLE MR. JUSTICE R.V. RAVEENDRAN

For Appellant (s)

Mr. K. Swamy, Adv.

Mr. A. Subba Rao, Adv.

Mr. Gaurav Aggarwal, Adv.

Mr. Ajay Sharma, Adv.

Mr. B.K. Prasad, Adv.

For Respondent (s)

Mr. Lakshmikumaran, Adv.

Mr. M.P. Devnath, Adv.

Mr. Rajesh Kumar, Adv.

UPON hearing counsel the Court made the following

O R D E R

C.A.Nos.2804-2806/2004:

The civil appeals are dismissed in terms of the signed order.

S.L.P.(C) Nos.2899-2900/2004:

The impugned decision of the Tribunal, on facts, that the Department is not

entitled to invoke the extended period of limitation cannot be faulted. However, Mr. A.

Subba Rao, learned counsel, points out the concession of the assessee, as recorded in

Paragraph 17 of the order of the Commissioner of Central Excise and Customs dated 31st

December, 2001, to the effect that the assessee conceded and requested for adjusting the

amount from payment of Rs.11,08,036/- made by them and in this view, the charges

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levelled against the assessee regarding the availment of wrong MODVAT credit were

sustained and they were held to be liable for making the payment of the said amount. On

this issue, Mr. V. Lakshmikumaran, learned counsel, does not dispute the concession but

states that the payment as per the said concession has already been made. The dismissal of

these special leave petitions, which we propose, would not affect this payment.

The special leave petitions are, accordingly, dismissed.

(N. Annapurna)

(T.I.Rajput)

(V.P. Tyagi)

Court Master

AR-cum-PS

Asstt. Registrar

(Signed order in civil appeals is placed on the file.)

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IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.2804-2806 OF 2004

Commissioner of Central Excise, Mumbai  
...Appellant(s)

Versus

Essel Propack Ltd.  
...Respondent(s)

O R D E R

It is evident, on facts, that the assessee had filed invoices giving detailed product description along with and as a part of RT 12 return filed in May, 1996. It is for that reason, it seems that the Tribunal, on facts, as stated in para 7, reversed the decision of the Commissioner and came to the conclusion that the Department is not entitled to extended period of limitation under Section 11-A of the Central Excise Act. There is no merit in the appeals.

The civil appeals are, accordingly, dismissed.

.....CJI.

(Y.K. SABHARWAL)

.....J.

(C.K. THAKKER)

.....J.

(R.V. RAVEENDRAN)

New Delhi,

October 11, 2006.