

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2543 OF 2006

C.C.E., MUMBAI

Appellant(s)

VERSUS

M/S. MAHINDRA & MAHINDRA LTD.

Respondent(s)

WITH

CIVIL APPEAL NO. 957 OF 2010

O R D E R

There is a conflict of opinion between two Benches of the Customs Excise and Service Tax Appellate Tribunal (hereinafter referred to as 'the Tribunal')

In Appeal No.E/394/01, the Tribunal passed an order on 19th July, 2005 holding that the vehicles manufactured by the assessee falls under Entry 87.02.00 of the Central Excise Tariff Act, 1985 (hereinafter referred to as 'the Act')

However, in Appeal No. E/2053/05, decided on 7th December, 2009, the Tribunal has taken the view that the vehicles manufactured by the assessee falls under Entry 87.03.00 of the Act.

Since two Benches of the same strength of Members have taken two conflicting views, we are of the opinion, that

judicial discipline requires that instead of disagreeing with the view taken by the first Bench, the appropriate course for the second Bench would have been to refer the matter to a larger Bench. This is the basic requirement of judicial discipline. Since this has not been done, we set aside both orders and remand both the appeals back to the Tribunal and request its President to constitute a larger Bench of three Members to decide the issue whether the vehicles manufactured by the assessee falls under Entry 87.02.00 or 87.03.00 of the Act.

We make it clear that we have not expressed any view on the merits of the case and all contentions are open to both the parties in support of their respective stand.

The interim order passed by this Court on 8th February, 2010 in C.A. No. 957 of 2010 will continue till the disposal of the appeals by the Tribunal.

Since the matters pertain, inter alia, to Classification List of 1992, we request the Tribunal to make an effort to expedite the hearing of the appeals.

Appeals are disposed of. No costs.

.....J
(MADAN B. LOKUR)

.....J
(C. NAGAPPAN)

NEW DELHI
AUGUST 27, 2014

ITEM NO.102

COURT NO.11

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(s). 2543/2006

C.C.E., MUMBAI

Appellant(s)

VERSUS

M/S. MAHINDRA & MAHINDRA LTD.

Respondent(s)

(with appln. (s) for permission to file addl. documents and office report)

WITH

C.A. No. 957/2010

(With appln.(s) for permission to file additional documents and permission to file rejoinder affidavit and Office Report)

Date : 27/08/2014 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MADAN B. LOKUR

HON'BLE MR. JUSTICE C. NAGAPPAN

For Appellant(s) Mr. N.K. Kaul, ASG
Mr. K. Radhakrishanan, Adv.
Ms. Sunita Rani Singh, Adv.
Ms. K. Swami, Adv.
Mr. B. Krishna Prasad ,Adv.

Mr. E. C. Agrawala ,Adv.

For Respondent(s) Mr. H.N. Salve, Sr. Adv.
Mr. Shyam Diwan, Sr. Adv.
Mr. Anil Wahi, Adv.
Mr. Mahesh Agarwaql, Adv.
Mr. Rishi Agrawala, Adv.
Mr. E. C. Agrawala ,Adv.
Ms. Radhika Gautam, Adv.
Mr. Abhinav Agarwal, Adv.

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

Both the appeals are remanded back to the Tribunal with a request to constitute a larger Bench of three Members to decide the issue involved.

The interim order passed by this Court on 8th February, 2010 in C.A. No. 957 of 2010 will continue till the disposal of the appeals by the Tribunal.

Appeals are disposed of in terms of the signed order.

(NEELAM GULATI)

COURT MASTER

(Signed order is placed on the file)

(JASWINDER KAUR)

COURT MASTER

