

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. 2686 OF 2003

M/S. FREEZAIR INDIA (P) LTD.

Appellant (s)

VERSUS

COMMNR. OF CENTRAL EXCISE, DELHI

Respondent(s)

(With office report)

Date: 14/09/2011 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE D.K. JAIN
HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA

For Appellant(s) Ms. Meenakshi Arora, Adv.

For Respondent(s) Mr. Harish Chandra, Sr. Adv.
Ms. Binu Tamta, Adv.
Mr. B. Krishna Prasad, Adv.

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

The appeal is dismissed as withdrawn with liberty to the appellant to prefer appeal or reference, as may be advised, within four weeks from today. If such an appeal/reference is filed within the time granted, the High Court will decide the matter on merits without reference to the question of limitation.

(VINOD LAKHINA) (KUSUM GULATI)
Court Master Court Master

(SIGNED ORDER IS PLACED ON THE FILE)
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2686 OF 2003

M/S FREEZAIR INDIA (P) LTD.

...APPELLANT

VERSUS

COMMISSIONER OF CENTRAL EXCISE,
DELHI-1

...RESPONDENT

ORDER

During the course of hearing, it has transpired that as in this appeal the issue raised does not relate to the determination of any question having relation to the rate of duty of excise or to the value of goods for the purposes of assessment, it is not maintainable under Section 35-L of the Central Excise Act, 1944. Faced with the situation, learned counsel, appearing for the appellant, seeks leave to withdraw the appeal with liberty to file appeal/reference to the High Court. Learned counsel, however, prays that since the period of limitation to file appeal/reference under the said Act has already expired, the High Court may be requested to entertain appeal/reference under Section 35G/35H of the said Act without insisting on a reference being made to it by the Tribunal.

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We are of the view that the prayer made by learned counsel is reasonable inasmuch as the admission of this appeal, per se, shows that it involves a question of law.

Accordingly, the appeal is dismissed as withdrawn with liberty to the appellant to prefer appeal or reference, as may be advised, within four weeks from today. If such an appeal/reference is filed within the time granted, the High Court will decide the matter on merits without reference to the question of limitation.

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(D.K. JAIN, J.)

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(SUDHANSU JYOTI MUKHOPADHAYA, J.)

NEW DELHI
SEPTEMBER 14, 2011