

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

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).11876/2005

(From the judgement and order dated 16/03/2004 in CECRP No.6/2003
of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

M/S. H.B. FIBRES LTD.

Petitioner(s)

VERSUS

COMMNR. OF CUSTOMS, AMRITSAR & ANR.

Respondent(s)

[With appln(s) for c/delay in filing SLP, with prayer for interim
relief and office report][For final disposal]

Date: 18/05/2007 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.B. SINHA

HON'BLE MR. JUSTICE MARKANDEY KATJU

For Petitioner(s)

Mr. C. Harishankar, Adv.

Mr. C.M. Jayakumar, Adv.

Mr. Jagadhish N., Adv.

Ms. Neeru Vaid, Adv.

For Respondent(s) Mr. Rudreshwar Singh, Adv.

Mr. B. Krishna Prasad, Adv.

UPON hearing counsel the Court made the following

O R D E R

Delay condoned.

Leave granted.

The appeal is allowed in terms of the signed order.

(Subhash Chander)

(Pushap Lata Bhardwaj)

Court Master

Court Master

[Signed Order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2007

[Arising out of S.L.P.(C)No.11876 of 2005]

M/s. H.B. Fibres Ltd.

.....Appellant

Versus

Commnr. of Customs, Amritsar & Anr.

.....Respondents

O R D E R

Leave granted.

The appellant herein is admittedly not the owner of the goods. One Ravi Jagota was found to be the owner of the goods.

Despite the same, the redemption fine has been imposed on the appellant. The appellant has filed a reference application before

the High Court in terms of Section 130A of the Customs Act, 1962

to prepare a statement of case and refer the following questions of

law arising out of the order of Customs, Excise & Gold (Control)

Appellate Tribunal [now Customs, Excise & Service Tax Appellate

Tribunal] for its opinion :

"(i) Whether in the facts and circumstances of the case, penalty could be levied on the petitioner in as much as the petitioner was acting bonafide?

(ii) Whether in the facts and circumstances of the case, the Tribunal was justified in fixing Redemption Fine of Rs.10 lakhs, when there was loss and the market price of the imported goods realized by the Appellant was lower than the duty chargeable thereon?

(iii) Whether in the facts and circumstances of the case, fine be imposed on the appellant under Section 125 in as much as the Commissioner in his order observed that goods belonged to Sh. Ravi Jagota of Youngman and it was he who had placed order for the goods?

(iv) Whether in the facts and circumstances of the case, the petitioner be liable for wrong doings of Sh. Ravi Jagota because it was he who had misdeclared and under valued the goods and not the petitioners?

(v) Whether in the facts and circumstances of the case, fine imposed on the petitioner be sustained since the petitioner has filed bill of entry as per documents given to him by the suppliers, petitioner was not aware about the actual nature of goods and Sh. Ravi Jagota had misused the name of the petitioner company to further his interests?

(vi) Whether in the facts and circumstances of the case, the construction of Section 125 of the Customs Act, 1962 was proper, legal and justified?"

The High Court, by reason of the impugned judgment, has refused to do so. A bare perusal of Section 125 of the Customs Act shows that the appellant has raised a question(s) of law which was/were required to be considered by the High Court. In fact, Mr. Rudreshwar Singh, learned counsel appearing on behalf of the respondent submits that another question which should have been considered by the High Court is as to whether the appellant, as incharge of the said business, Ravi Jagota was liable for imposition of redemption fine under Section 125 of the said Act or

not.

In this view of the matter, we are of the opinion that the High Court may consider the question(s) of law framed by the appellant as well as the respondent herein and pass appropriate orders after hearing the parties.

The impugned judgment is set aside. The appeal is allowed accordingly and the matter is remitted to the High Court.

Sd/-

.....J.

[S.B. SINHA]

Sd/-

.....J.

[MARKANDEY KATJU]

New Delhi.

May 18, 2007.