

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(s). 4375 OF 2003

COMMNR. OF CENTRAL EXCISE, NOIDA

Appellant (s)

VERSUS

M/S. MORGAN TECTRONICS, NOIDA

Respondent(s)

(With office report)

Date: 19/04/2011

This Appeal was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE MUKUNDAKAM SHARMA

HON'BLE MR. JUSTICE ANIL R. DAVE

For Appellant(s)

Mr. R.P. Bhatt, Sr. Adv.

Mr. H.R. Rao, Adv.

Ms. Kiran Bhardwaj, Adv.

Mr. B.K. Prasad, Adv.

Mr. P. Parmeswaran, Adv.

For Respondent(s)

Rr-Ex-Parte

UPON hearing counsel the Court made the following

O R D E R

The Civil Appeal filed by the appellant herein stands dismissed with no order as to costs in terms of the signed order.

(DEEPAK MANSUKHANI)

Court Master

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(s). 4375 OF 2003

(RENU DIWAN)

Court Master

COMMNR. OF CENTRAL EXCISE, NOIDA

Appellant (s)

VERSUS

M/S. MORGAN TECTRONICS, NOIDA

Respondent(s)

O R D E R

This appeal is filed by the appellant, Commissioner of Central Excise, NOIDA challenging the legality of the judgment date

20.11.2002 passed by CEGAT, New Delhi.

By the aforesaid judgment and

order passed by the Tribunal, an appeal filed by the respondent was

allowed in the light of the decisions of the Tribunal in Virlon

Textile Mills Vs. Commissioner of C. Ex., Mumbai-III 2002(139) E.L.T.

371(Tri-Mumbai)

and Ginni International

Ltd.

Vs.

C.C.E.,

Jaipu

r
2001(47) RLT 412(CEGAT-Del.).

Despite service of notice, the respondent has not entered

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appearance and, therefore, we have heard the learned Counsel
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appearing for the appellant only.

Learned Counsel appearing for the appellant has fairly drawn our attention to the decision of this Court in Virlon Textile Mills Limited Vs. Commissioner of Central Excise, Mumbai 2007(4) SCC 440 whereby the Civil Appeal filed by the appellant therein, namely, Virlon Textile Mills Limited was allowed to the extent of setting aside the judgment of the Tribunal and remitting the matter back to the Commissioner for calculation of duty payable in terms of Notification No. 2/95-CE which was interpreted by this Court in the said decision. Similarly, the case of Ginni International Limited also came to this Court by virtue of appeal filed by Commissioner of Central Excise, Jaipur and registered as Civil Appeal No. 1900 of 2002. The said appeal was held to be squarely covered by the judgment in the case of Virlon Textile Mills Ltd.(supra) and in terms thereof, the Civil Appeal was dismissed making it clear that this Court in that case was concerned with the assessment year 1.4.1999 to 31.3.2000. The aforesaid decisions of this Court are also squarely applicable to the facts and circumstances of the present case.

Our attention is also drawn to the fact that in the present case all clearances have been made by the department in accordance with the written permission granted by the Development Commissioner.

Considering the facts and circumstances of the case, and also keeping in view the ratio of the decisions of this court in Virlon Textiles Mills(supra) and M/s. Ginni International Ltd.(supra), the Civil Appeal filed by the appellant herein stands dismissed with no order as to costs.

.....J.
(DR. MUKUNDAKAM SHARMA)

.....J.
(ANIL R. DAVE)

NEW DELHI
APRIL 19, 2011