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C.A.No. 5291-5293 OF 1997

ITEM No.105

Court No. 1

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 Nos. 5291-5293 of 1997

Flex Laminators & Flex Industries Ltd.

...Appellant(s)

vs.

Commissioner Of Central Excise, Meerut

...Respondent(s)

(with appln.(s) for permission to place addl. documents on record and
with office report)

Date: 16/12/2003 This/These matter(s) was/were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE S.B. SINHA

For Appellant (s)Mr. V Lakshmikumaran, Adv.
Mr. Rajesh Kumar, Adv.
Mr. Anil Mishra, Adv.
Mr. Alok Yadav, Adv.

For Respondent (s)Mr. Sanjiv Sen, Adv. for
Mr. B Krishna Prasad, Adv.

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

Mr. V Lakshmikumaran, learned counsel appearing for the appellant commenced his arguments at 3
.40 P.M. and was on his legs when the Court rose for the day leaving the matter as part-heard.

(D.P. WALIA) (JANKI BHATIA)
COURT MASTER COURT MASTER

ITEM NO. 101COURT NO. 1 DATE: 17/12/2003
(Part-Heard)

CORAM & APPEARANCE :SAME AS ON 16.12.2003

Mr. V Lakshmikumaran, learned counsel appearing for the appellant resumed his arguments at 10.45 A.M. and concluded at 10.55 A.M. Thereafter, Mr. Sanjiv Sen, learned counsel appearing for the respondent argued in the matter for 10 minutes.

The appeals stand disposed of in terms of the signed order. There shall be no order as to costs.

(D.P. WALIA) (JANKI BHATIA)
COURT MASTER COURT MASTER

(Signed Order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 5291-5293 OF 1997

Flex Laminators & Flex Industries Ltd.... Appellant(s)

vs.

Commissioner of Central Excise, Meerut... Respondent(s)

O R D E R

These appeals arise out of an order passed by the Customs, Excise & Gold (Control) Appellate Tribunal, New Delhi (for short "the Tribunal").

One of the questions which arises in these appeals relates to the validity of Section 11A of the Central Excise Act, 1944 (for short "the Act"). The said question stands concluded by a decision of this Court in ITW Signode India Ltd. vs. Collector of Central Excise, 2003 (158) E.L.T. 403 (S.C.).

The other question which arises in these appeals is as to whether the alleged suppression made by the appellant was bonafide or not. It is urged on behalf of the appellant that in fact th

ere was no suppression and the non-disclosure was a bonafide one. The learned counsel contend s that the Tribunal has committed certain factual errors and has not considered the then exist ing trade practice as well as the fluid legal position then existing.

Having heard the learned counsel for the parties, we are of the view that if the appellant is aggrieved against that part of the order, it is open to him to move the Tribunal under Section 35C of the Act. In case such an application is filed by the appellant herein, the same may b e entertained and decided on merits by the Tribunal.

With these directions, these appeals stand disposed of. There shall be no order as to costs.

.....CJI(V.N. KHARE)

.....J

(S.B. SINHA)

New Delhi;

December 17, 2003.