

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). 1748 OF 1999

STANDARD CHARTERED BANK & ORS.

Appellant

(s)

VERSUS

DIRECTORATE OF ENFORCEMENT & ORS.

Respondent

(s)

WITH

Civil Appeal NO. 1749 of 1999

(With office report)

Civil Appeal NO. 1750 of 1999

(With office report)

Civil Appeal NO. 1751&1944 of 1999

CRL.APPEAL NO. 684 of 2005

(With appln(s) for permission to place addl. documents on record)

(With office report)

CrI.APPEAL NO. 685 of 2005

(With appln(s) for stay and office report)

CRL.APPEAL NO. 688 of 2005

(With appln(s) for impleading party and office report)

CRL.APPEAL NO. 847 of 2004

(With appln(s) for ad-interim ex-parte stay)

CRL.APPEAL NO. 848 of 2004

(With appln(s) for stay)

WITH W.P(CRL.) NO. 165 of 2004

(With appln(s) for stay and office report)

Date: 19/07/2005 These Appeals & Petition were called on for hearing
today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHAN

HON'BLE MR. JUSTICE S.B. SINHA

For Appellant(s) Mr. K.K. Venugopal, Sr. Adv.
In CA 1748 & 1749/99 Mr. Jaideep Gupta, Sr. Adv.
& Respondent. In Ms. B. Vijayalakshmi Menon, Adv.
CA 1751 & 1944/99 Ms. Indu Malhotra, Adv.
Ms. Anuradha Dutt, Adv.
In CA No.1750/99 & Mr. U.A. Rana, Adv.
Resp. in 1751 & 1944 Mr. H.D. Petit, Adv.
Of 1999 Mr. Rajeev Dewal, Adv.
Ms. Kanan Zandani, Adv.
Mr. Sadeep Kharel, Adv.
Mrs. K. Sumathi, Adv.for
M/s Gagrath & Co.

2

In CrI.A.No.688/2005 Mr. Ram Jeshmalani, Sr. Adv.
Mr. Mukul Rohatgi, Sr. Adv.
Mr. Mahesh Jethmalani, Adv.
Mr. Venkatesh Dhand, Adv.
Mr. Gourav Shah, Adv.
Mr. Rishi Agrawal, Adv.
Mr. Mahesh Agrawal, Adv.
Mr. E.C. Agrawala, Adv.

In CrI.A.Nos.847 & 848
of 2004 Ms. Radha Rangaswamy, Adv.

In Crl.A.No.684/05 &

WP No.165/2004

Mr. R.K. Handoo, Adv.

Mr. K.V.Mohan, Adv.

Mr. M.J. Paul, Adv.

For respondents and

Mr. P.P. Malhotra, ASG

for appellant in

Mr. A.K. Panda, Sr. Adv.

Crl.A.No.685/05

Mr. N.K. Matta, Adv.

Mr. P. Parmeshwaran, Adv.

Mr. B. Krishna Prasad, Adv.

In Crl.A.No.688/2005

Mr. Ashok Desai, Sr. Adv.

Mr. Aspi Chenoy, Sr. Adv.

Mr. Amit Desai, Adv.

Mr. Jai Munim, Adv.

Mr. Heten Sampat, Adv.

Ms. Meenakshi Arora, Adv.

Ms. Karuna Nandy, Adv.

Ms. Priya Rao, Adv.

Mr. V.K. Verma, Adv.

In Crl.A.No.685/2005

Mr. K.N. Bhat, Sr. Adv.

Mr. P. Sil, Adv.

Mr. Deepak Kumar Jena, Adv.

Mr. Ghanshyam Joshi, Adv.

Mr. Ravindra Keshavrao Adsure, Adv.

UPON hearing counsel the Court made the following

O R D E R

CA Nos.1748, 1749, 1750, 1751 & 1944 of 1999

A Bench of this Court referred these matters for decision by a three-Judge Bench on 20.04.2004. In view of the

3

said order, these matter be placed before a three-Judge Bench.

Cr

l.A.Nos.

847 & 848/2004,684/2005 and W.P.(Crl.)

No.165/2004

To be taken up with Civil Appeal No.1748 to 1751 of 1999 and Civil Appeal No.1944 of 1999 by a three-Judge Bench.

Criminal Appeal No. 685 of 2005

Appeal is allowed in terms of the signed order.

Criminal Appeal No.688 of 2005

As per office report, the original record has not been received from the High Court. Registry is directed to send immediate reminder to the High Court for sending the original record to this Court forthwith. Soon after the receipt of the original record, the matter is to be listed for further directions.

(Parveen Kr. Chawla)

(Kanwal Singh)

[Signed Order is placed on the File]

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.685 OF 2005

Enforcement Directorate,
Ministry of Finance

..Appellant

Versus

M/s National Fertilizers Limited

..Respondent

O R D E R

A criminal complaint No. 729/1/2002 was filed by the Enforcement Directorate, appellant herein, against M/s National Fertilizers Limited, respondent herein, under Section 56 of the Foreign Exchange & Regulation Act, 1973 read with Section 200 of Cr.P.C. Aggrieved against the aforesaid action, respondent filed a petition being CrI.M.M. No. 3003/2002 under Section 482 of the Code of Civil Procedure read with Article 227 of the Constitution of India in the High Court of Delhi at New Delhi for quashing of the criminal complaint and the proceedings initiated in pursuance thereto as well as for setting

Court without going into the merits of the dispute allowed the petition relying upon a judgment of this Court in Assistant Commissioner, Assessment-II, Bangalore & Others vs. M/s Velliappa Textiles Limited & Another [2003 (11) SCC 405].

Aggrieved against the order of the High Court, the Enforcement Directorate, Ministry of Finance filed the present appeal. The matters were referred to a Five-Judge Bench. The Five-Judge Bench in Standard Chartered Bank & Others vs. Directorate of Enforcement & Others [2005 (4) SCC 530] overruled the decision in M/s Velliappa Textiles Limited & Another (supra).

In view of the judgment in Standard Chartered Bank & Others vs. Directorate of Enforcement & Others [2005 (4) SCC 530], this appeal has to be allowed and the impugned order of the High Court has to be set aside. Accordingly, we allow this appeal, set aside the order of the High Court and remit the matter back to the High Court for a fresh

3

decision on the points other than the one which has been concluded by the judgment in Standard Chartered Bank & Others vs. Directorate of Enforcement & Others [2005 (4) SCC 530].

Appeal is allowed in the above terms.

.....J.

[ASHOK BHAN]

NEW DELHI ;

.....J.

JULY 19, 2005.

[S.B.SINHA]