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C.A.No. 4694 OF 2000

ITEM NO.115

COURT NO.09

SECTION III

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.4694 OF 2000@@
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COMMNR. OF CENTRAL EXCISE, AHMEDABAD ... APPELLANT(S)

VERSUS

SRIVALLABH GLASS WORKS LIMITED ... RESPONDENT(S)

(With appln.(s) for ex-parte stay and with office report)

Date: 27/02/2003. This matter was called on for hearing today.@@
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CORAM:

HON'BLE MR. JUSTICE S.N. VARIAVA
HON'BLE MR. JUSTICE B.N. AGRAWAL

For Appellant(s) Mr. TLV Iyer, Sr. Adv.
Ms. Smita Inna, Adv.
Mr. B. Krishna Prasad, Adv.

For Respondent (s) Ex-parte.

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

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Heard for fifteen minutes.

The civil appeal is disposed of in terms of the
signed order. There shall be no order as to costs.

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(K.K. Chawla) (Jasbir Singh)
Court Master Court Master

[Signed order is placed on the file]

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.4694 OF 2000@@
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COMMNR. OF CENTRAL EXCISE, AHMEDABAD APPELLANT

referred to a larger Bench.

In our view, it is not necessary to tag this case with Civil Appeal No. 7868 of 1995 as on facts of this case the judgment in Cotspun Ltd. (supra) has no@@
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application. Cotspuns case merely lays down that so long as the classification list is enforced, the duty would have to be levied as per the price disclosed in that list. That case dealt with the duty on NES yarn in respect of which a classification list had been filed. The differential duty and penalty were claimed on NES yarn only. Thus, what Cotspuns case lays down is that so far as classification list subsists the differential duty cannot be claimed on the same product. In the present case, what was being cleared is not the product which has been shown in the classification list. A different product, in respect of which no classification list had been filed, was being cleared and sold. Therefore, the principle laid down in Cotspuns case have no application.

As both the Collector and the Tribunal have found on all points in favour of the Department and as no appeal has been filed by the Respondents we hold
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that the final conclusion of CEGAT based on Cotspuns case is wrong and cannot be sustained. On the findings given by the Tribunal, the demand is justified. We, therefore, set aside the impugned judgment and confirm the order of the Collector.

The appeal stands disposed of accordingly. There shall be no order as to costs.

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.....J.
(S.N. Variava)

.....J.
(B.N. Agrawal)

New Delhi,
February 27, 2003.