

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). 4989-4990 OF 2001

COMMNR. OF CENTRAL EXCISE, CHANDIGARH-I

Appellant (s)

VERSUS

M/S. EURO COTSPINS LTD.

Respondent(s)

(With office report)

WITH Civil Appeal NO. 5418 of 2002

(With office report)

Date: 22/03/2007 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHAN

HON'BLE MR. JUSTICE DALVEER BHANDARI

For Appellant(s)

Mr. K. Radhakrishnan, Sr.Adv.

Mr. T.A.Khan, Adv.

Mr. Arijit Prasad, Adv.

Mr. B. Krishna Prasad,Adv.

For Respondent(s)

Mr. A.R. Madhav Rao, Adv.

Mr. Alok Yadav, Adv.

Mr. Vishwanath Shukla, Adv.

Mr. V. Balachandran, Adv.

UPON hearing counsel the Court made the following

O R D E R

Heard Mr.K.Radhakrishnan, learned senior counsel, from 10.50 a.m. to 10.50 a.m. and Mr.A.R.Madhav Rao, learned counsel appearing for the respondent for about five minutes thereafter. Hearing concluded.

The appeals are disposed of, in terms of the signed order.

(N. Annapurna)
Court Master

(Kanwal Singh)
Court Master

(Signed order is placed on the file.)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.4989-4990 OF 2001

Commr. of Central Excise, Chandigarh-I

...Appellant(s)

Versus

M/s. Euro Cotspins Ltd.

...Respondent(s)

WITH CIVIL APPEAL NO.5418 OF 2002

O R D E R

In C.A.Nos.4989-4990/2001:

The respondent-assessee is a 100% export oriented unit engaged in manufacturing yarn. The preventive staff of the Central Excise Division, on a visit to the factory of the assessee, found that a certain amount of goods were removed in a clandestine manner and without showing in the books of accounts were sold in the domestic tariff area in excess of the permissible limit without getting sanction from the concerned authority. It was further found that there was evasion of duty by the assessee. On the basis of the report submitted by the preventive staff of the Central Excise Division, two show cause notices dated 1.11.1996 and 22.1.1998 for the period April, 1996 to July, 1996 and a corrigendum dated 6.11.1996 to the show cause notice dated 1.11.1996 were issued to the assessee.

The Authority-in-Original passed a detailed order confirming the demand of duty and imposed penalty. Penalty was also imposed on the Managing Director of the assessee Company.

The assessee, being aggrieved, filed an appeal before the

Tribunal. The Tribunal has set aside the order to the extent of reduction in duty and penalty, as indicated in the order.

With the assistance of learned counsel for the parties, we have gone through the record, the Order in Original and the order of the Tribunal. We find that the order of the Tribunal does not record reasons in support of the conclusions arrived at. Faced with this situation, learned counsel appearing for the respondent-assessee states that he will not be able to support the order passed by the Tribunal and prays that the same be set aside and the case be remitted back to the Tribunal for a fresh decision in accordance with law, leaving all the contentions open to the parties.

In view of the submission made by learned counsel for the respondent, we set aside the order passed by the Tribunal and remit the case back to the Tribunal for a fresh decision in accordance with law.

All contentions are left open to the parties.

The Civil Appeals are, accordingly, disposed of.

In C.A.No.5418/2002:

In view of the detailed order passed in C.A.Nos.4989-

4990/2001, the impugned order is set aside and the case is remitted

back to the Tribunal for a fresh decision in accordance with law.

The appeal is disposed of accordingly.

.....J.

(ASHOK BHAN)

.....J.

(DALVEER BHANDARI)

New Delhi,

March 22, 2007.