

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

C.A. NO. 2894 of 2006

Commissioner of Customs (Preventive), Jamnagar
llant(s)

Appe

VERSUS

M/s. Essar Oil Ltd., Jamnagar
Respondent(s)

(with appln(s) for stay)

Date: 12/09/2006 This/these matter(s) was/were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHAN
HON'BLE MR. JUSTICE TARUN CHATTERJEE
HON'BLE MR. JUSTICE MARKANDEY KATJU

For Appellant(s)

Mr. A.N. Haksar, Sr. Adv.
Mr. P. Parmeswaran, Adv.

For Respondent(s)

Mr. Joseph Vellapally, Sr. Adv.
Mr. E.C. Agrawala, Adv.

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

This is a statutory appeal.

On the first date of hearing, i.e., 7th of July, 2006, this Court condoned the delay in filing the appeal and issued notice. The respondent being present service was waived and time was granted for filing counter and rejoinder. This appeal should have been listed [for admission] after eight weeks, as directed therein. But, the office has misconstrued the tenor of the order and took it as if the appeal has been admitted and listed the appeal in the regular hearing cases instead of miscellaneous list.

Mere condonation of delay and issue of notice does not amount to admission of the appeal.

In an identical situation, on 28th April, 2006, this Court

in C.A. No.

1833/2006 clarified a similar order that "Issue notice" should be read as "Issue notice to show cause why the appeal should not be admitted".. But, the mistake is still recurring.

Office is directed that in all such appeals, mere condonation of delay should not be taken as if the appeal has been admitted. The same shall be listed in the miscellaneous list of cases for admission and not in regular hearing cases.

Accordingly, this appeal should be listed in the miscellaneous list for admission.

Counter-affidavit has been filed. Rejoinder, if any, be filed within three weeks.

(J.S. Rawat)

AR-cum-PS

(Kanwal Singh)

Court Master