

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). 4852-4853 OF 2005

TRIVENI GLASS LTD.

Appellant (s)

VERSUS

COMMNR. OF CENTRAL EXCISE, GUNTUR

Respondent(s)

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

Date: 06/10/2010 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE D.K. JAIN
HON'BLE MR. JUSTICE H.L. DATTU

For Appellant(s)

Mr. S.K. Bagaria, Sr. Adv.
Mr. Tarun Gulati, Adv.
Mr. Rony John, Adv.
Mr. Praveen Kumar, Adv.

For Respondent(s)

Mr. V. Shekhar, Sr. Adv.
Mr. Ashok K. Srivastava, Adv.
Mr. B.K. Prasad, Adv.
Mrs. Anil Katiyar, Adv.

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

The Civil Appeals are allowed in terms of
the signed order with no order as to costs.

(VINOD LAKHINA)
Court Master

(KUSUM GULATI)
Court Master

(SIGNED ORDER IS PLACED ON THE FILE)
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NOS. 4852-4853 OF 2005

M/S TRIVENI GLASS LTD.

...APPELLANT

VERSUS

COMMISSIONER OF CENTRAL EXCISE,
GUNTUR

...RESPONDENT

ORDER

In view of the decision of this Court in the case of the assessee itself reported as Triveni Glass Ltd. vs. Union of India [2005 (181) E.L.T. 289 (S.C.)], the issue whether the cost of wooden crates is includible in the value of glass sheets is no

more res integra. Para 17 of the said decision,
relevant for our purpose, reads thus:

"We have considered the submission of the parties. In our view, the law laid down by this Court in Mahalakshmi Glass Works (P) Ltd. (supra) is the correct law. There is no necessity that the crates must be actually returned. So long as there is an obligation on the seller to take back the crates, if the buyer chooses to return them, it is sufficient. The term in the contract, set out above, imposes an obligation on the Appellants to take back the wooden crates and to pay the stipulated amount to the buyer if the buyer chooses to return them. Wooden crates merely consist of planks of wood which are nailed together. Therefore, even if they are dismantled by the buyer and the planks are returned to the Appellants the Appellants would be in a position to use them again. In our view, the High Court was wrong in holding that the wooden crates are not durable or returnable. The answer to the second question therefore has to be in favour of the Appellants. It is held that, in view of the specific term in the bills/invoices, the wooden crates are durable and returnable packing whose costs is not to be included in the value of glass sheets."

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In light of the said decision, the appeals are allowed and the impugned judgment is set aside, with no order as to costs.

....., J.
(D.K. JAIN)

....., J.
(H.L. DATTU)

NEW DELHI
OCTOBER 06, 2010