

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

CIVIL APPEAL NOS. 4426-4431 OF 2004.

COMMISSIONER OF CENTRAL EXCISE, MEERUT-II Appellant (s)

VERSUS

M/S L.H. SUGAR FACTORIES LTD.& ORS. Respondent (s)

[With applns. for stay & office report]

WITH

CA Nos. 5045/2004, 5221/2004, 6183/2004, 46/2005, 1467/2005, 1463/2005, 1745/2005,  
2312-2316/2005, 2864/2005, 2865/2005 (with appln. for c/delay) & 3628/2005.  
(With appln. for ex-parte stay & office report)

Date : 27/07/2005 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.P. SINGH  
HON'BLE MR. JUSTICE S.H. KAPADIA

For Appellant(s) Mr. Rajeev Dutta, ASG  
M/s Rupesh Kumar, TA Khan, Shalini Kumar  
P. Parmeswaran, Adv.  
Mr. SN Terdol, Adv.

For Respondent (s) M/s V. Lakshmikumaran, Alok Yadav,  
Rajesh Kumar, Prakash Kumar Singh,  
Ajay Kumar Mishra, Adv.

Mr. P. Narasimhan, Adv.

M/s. S. Muralidhar, Somiran Sharma, Adv.

Mr. PH Parekh, Adv.

M/s. Inkle Barooah, Bina Gupta, Adv.

UPON hearing the counsel the Court made the following

O R D E R

Mr. V. Lakshmikumaran, counsel appearing for Mr. Rajesh Kumar,  
advocate, also accepts notice for sole respondent in CA 4427 and  
4431 of 2004.

We have perused the Office Report. It appears from the said  
Report that CA Nos. 4426-4431/2004, CA No. 5221/2004, CA No. 6183/2004,  
CA No. 1467/2005, CA No. 1745/2005 and CA No. 1463/2005 are ready for hearing.  
In other appeals, some of the respondents have not been served.

and CA No.1463/2005. Heard the parties. These appeals are dismissed in terms of the signed order.

The remaining appeals shall be placed for hearing as and when service is complete.

[Sheetal Dhingra][Naresh Kumar] [Vijay Dhawan]  
Court Master Court Master Court Master

[Signed judgment/order is placed on the file.]

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 4426-4431 OF 2004

COMMISSIONER OF CENTRAL EXCISE, MEERUT-II Appellant

Vs.

M/S L.H. SUGAR FACTORIES LTD. & ORS. Respondents

WITH  
C.A.Nos. 5221/2004, 6183/2004, 1467/2005, 1463/2005 & 1745/2005

J\_U\_D\_G\_M\_E\_N\_T

We have heard counsel for the parties.  
Learned counsel for the parties have drawn our notice to the relevant provisions of the Finance Act as it stood in the year 1994 and thereafter as it stood after the various amendments to the Act in subsequent years. Having considered the relevant provisions of the Act, the Tribunal has, inter alia, recorded the following conclusion:-

The above would show that even the amended Section 73 takes in only the case of assesseees who are liable to file return under Section 70. Admittedly, the liability to file return is cast on the appellants only under Section 71A. The class of persons who come under Section 71A is not brought under the net of Section 73.

The above being the position show cause notices issued to the appellants invoking section 73 are not maintainable.  
We entirely agree with the conclusion arrived at by the Tribunal.

We find no merit in these appeals and the same are accordingly dismissed. No order as to costs.

.....J.  
( B.P. SINGH )

.....J.  
New Delhi, ( S.H. KAPADIA )  
27th July, 2005.