

v

C.A.No. 600 OF 1998
ITEM No.103 Court No.1

SECTION XIIA

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. 600/1998

DUNCANS INDUSTRIES LIMITED Appellant

VERSUS

UNION OF INDIA & ORS. Respondents

(With Office Report)

Date : 30/10/2003 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SHIVARAJ V. PATIL
HON'BLE MR. JUSTICE D.M. DHARMADHIKARI

For Appellant (s)
Mr. A.N. Haksar, Sr. Adv.,
Mr. U.A. Rana, Adv.,
Mr. Arvind Kumar, Adv. for
M/s. Gagrat & Co.

For Respondent (s)
Mr. Raju Ramachandran, ASG
Mr. N.K. Bajpai, Adv.,
Ms. Binu Tamta, Adv.,
Mr. B.K. Prasad, Adv.

UPON hearing counsel the Court made the following

O R D E R

The appeal is dismissed. No costs.

(Vijay Kumar Sharma)(Shelly Sen Gupta)
AR cum PS to Hon. Judge Court Master

Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.600/1998

DUNCANS INDUSTRIES LIMITED. ..Appellant

Versus

UNION OF INDIA & ORS...Respondents

O R D E R

Having heard the learned counsel for the parties and looking to the reasons recorded by the High Court in the impugned order as to the question of service of notice on the appellant-company, we are satisfied that this is not a fit case for our interference under Article 136 of the Constitution of India, particularly, in view of the observations made by the High Court in the impugned order to the following effect:-

"Having received the notice, Sri Goenka raised an objection asserting that he was not liable for any of the alleged acts of evasion of Central Excise duty. The petitioner-company itself, it is clear from the record, objected to the levy and sought a decision on the preliminary question as to the validity of service of notice. This objection which was put forth in the form of a letter without any date was actually received by the third respondent on 13.09.1995 but on the very next day i.e., on 14.09.1995, the present writ petition was filed taking the plea that the Show Cause Notice was without jurisdiction. Having invited a decision on the aspect of the validity of service of notice, it was not open to the petitioner to contend that the Show Cause Notice was without jurisdiction. The petitioner-company was fully aware of the contents of the Show Cause Notice and that is the reason why it went to the extent of citing the opinions of the former Chief Justice. Section 37-C of the Central Excise Act only incorporates the well-known principle of natural justice that no body should be condemned unheard."

Hence, the appeal is dismissed. No costs. We make it clear that all other contentions are left open to be urged by the either side on merits before the appropriate authority.

.....J (Shivaraj V. Patil)

.....J (D.M. Dharmadhikari)

New Delhi,
October 30, 2003