ITEM NO.102 COURT NO.5 SECTION III

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. 4522 OF 2003

COMMR. OF CENTRAL EXCISE, CHENNAI-I Appellant (s)
VERSUS
M/S FUTURA POLYMERS LTD. Respondent(s)
(With appln(s) for stay and office report)
WITH
Civil Appeal NO. 1962 of 2011
(With appln(s) for condonation of delay in filing appeal and permission to file additional documents and exemption from filing c/c of the impugned judgment and ad interim ex parte stay and with office report)

Date: 27/09/2011 These Appeals were called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE D.K. JAIN
HON'BLE MR. JUSTICE ANIL R. DAVE

For Appellant(s) Ms. B. Sunita Rao, Adv.
Ms. Shalini Kumar, Adv.
for Mr. B. Krishna Prasad, Adv.

For Respondent(s)
CA 4522/2003 Mr. Alok Yadav, Adv.
Mr. Krishna Mohan Menon, Adv.
for Mr. Rajesh Kumar, Adv.

CA 1962/2011 Mr. Navin Chawla, Adv.
Mr. Bharat Arora, Adv.

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

At the outset, it is pointed out by Mr. Alok Yadav, learned counsel appearing for the assessee that on 28th June, 2004, a larger Bench of Central Excise and Service Tax Appellate Tribunal had rendered a decision on the same issue, which arises in the present appeal. According to the learned counsel, the said decision having not been questioned by the Revenue, they cannot be permitted to pursue the present appeal.

...2/-



Mr. Navin Chawla, learned counsel appearing for the assessee in the connected matter i.e. Civil Appeal No. 1962 of 2011, also points out that, in fact, in his case, while deciding the appeal in favour of the assessee, the Tribunal has only relied on the said larger Bench decision.

Faced with the situation, Ms. B. Sunita Rao, learned counsel for the Revenue, prays for some time to seek instructions as to whether the decision of the larger Bench in Indoworth India

Ltd. versus Commissioner of Central Excise, Nagpur [2004 (170) E.L.T. 46 (Tri.-LB), was challenged by the Revenue or not.

At request, list on 29th September, 2011.

(VINOD LAKHINA)
Court Master

(KUSUM GULATI)
Court Master