

C.A.No. 6502 OF 1999
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PART-HEARD@
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ITEM No.101 COURT No. 2 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. 6502 of 1999@@
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Commissioner of Central Excise, Meerut Appellant

VERSUS

M/s. Hindustan Lever Ltd., U.P. & Anr. Respondents

(With office report)

With C.A.Nos.6434-36/2000 - With appln. for stay and office report
C.A.Nos.7442-43/2000 - With appln. for ex-parte stay.
C.A.Nos.5112-54/2000 - With Office Report
C.A.Nos.3548-49/2000 - With Office Report

Date : 26/04/2001 These appeals were called on for hearing today

CORAM :

HON'BLE MR. JUSTICE S.P. BHARUCHA
HON'BLE MR. JUSTICE N.SANTOSH HEGDE
HON'BLE MR. JUSTICE Y.K. SABHARWAL

For Appellant (s)/ Revenue Mr. Soli J. Sorabjee,AG.
Mr. Harish N. Salve,SG.
Mr. Rajiv Nanda,Adv.
Ms. Nisha Bagchi,Adv.
Ms. Smita Inna,Adv.
Mr. B.K. Prasad,Adv.

in CA 7442-7443/2000: Mr. Rupesh Kumar,Adv.
Mr. Tara Chandra Sharma,Adv.
Mr. Rajeev Sharma,Adv.
Mr. Ajay Sharma,Adv.
Ms. Neelam Sharma,Adv.
Ms. Pankhuri Shrivastava,Adv.

For Respondent(s) Mr. S. Ganesh,Adv.
Mr. Ravinder Narain,Adv.
Mr. Vikram Singh,Adv.
For M/s. J.B.D. & Co.,Advs.

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

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C.A. Nos.6502/99,6434-36/2000 and 5112-5154/2000:@
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The civil appeals are partly allowed.

No order as to costs.

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C.A. Nos.7442-7443/2000:@@
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Mr. Soli J. Sorabjee, learned Attorney General,
accepts notice.

List on 1st May, 2001.

C.A. Nos.3548-3549/2000:@@
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Adjourned to August, 2001 to enable the learned
Solicitor General to ascertain whether the Revenue preferred
a special leave petition against the decision of the Tribunal
in the case of Assam Asbestos Limited vs. Commissioner of@@
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Central Excise, Shillong (96 E.L.T. 101).@@
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(T.I. Rajput)
Court Master

(N.Annapurna)
Court Master

(Shelly Sengupta)
Court Master

(Signed order is placed on the file)

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

Civil Appeal No. 6502 of 1999@@
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Commissioner of Central Excise, Meerut ...Appellant (s)

Versus~

M/s. Hindustan Lever Ltd.,U.P. & Ors.Respondent (s)

With Civil Appeal Nos.6434-36/2000 & 5112-5154/2000.@@
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O R D E R@@
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These three appeals raise the issues of quantity

discount and damage discount. The first of the three appeals also raises the issue of bank charges.

So far as quantity discount is concerned, learned counsel for the assessee and the learned Attorney General are agreed that the order under challenge should be set aside (insofar as it relates to quantity discount) and that issue should stand remanded to the Tribunal to be considered afresh in accordance with law, with liberty to the parties to produce fresh evidence.

Insofar as bank charges are concerned, the issue is covered in favour of the assessee by the judgment of this Court in Commnr. of Central Excise vs. Vikram Detergent Ltd.@@

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(127 E.L.T. 641). Accordingly, the civil appeals, so far as they relate to bank charges, will stand dismissed.

Insofar as damage discount is concerned, the matter has been argued. The factual position has been pointed out and reference has been made to the two Madras Rubber Factory@@

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judgments reported in 1986 (Suppl.) S.C.C. 751 and 1995 (4) S.C.C. 349. Reference has also been made to the judgment of this Court in Vikram Detergent Limited. Having considered the@@
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facts, we are satisfied that the assessee is not entitled to a discount on account of damages, having regard to what is laid down in the judgments afore-stated.

The civil appeals, therefore, stand allowed to the extent of damage discount and quantity discount, as afore-stated.

No order as to costs.

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.....J.
(S.P. Bharucha)@@
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.....J.
(N. Santosh Hegde)@@
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.....J.
(Y.K. Sabharwal)@@
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New Delhi,
April 26, 2001.