

ITEM NO.104+121

COURT NO.5

SECTION IIIA &amp; XII

## 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). 826-829 OF 2001

STATE OF TAMIL NADU &amp; ANR.

Appellant (s)

VERSUS

M/S. LAVANYA ENTERPRISES

Respondent(s)

(With office report )

With

SLP(C) No.20650/2005

(With prayer for interim relief and office report)

Date: 21/03/2006 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHAN

HON'BLE MR. JUSTICE LOKESHWAR SINGH PANTA

For Appellant(s)

Mr. T.L. Vishwanatha Iyer, Sr. Adv.

Mr. Subramonium Prasad, Adv.

Mr. Gopala Krishnan R., Adv.

Kr. Jai Kishore, Adv.

Mr. R. Ayyam Perumal, Adv.

For Respondent(s)

Mr. K.S. Natrajan, Adv.

Mr. Nikhil Nayyar, Adv.

Mr. Ankit Singhal, Adv.

Mr. Rohini Musa, Adv.

Mr. R.S. Lambat, Adv.

Mr. B. Partha Sarthy, Adv.

UPON hearing counsel the Court made the following

O R D E R

While disposing of the appeal, the Division Bench of the High Court

by the

impugned order had directed the appellants herein to release the goods without claiming

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any demurrage or penalty and also directed the respondent herein (who was the

appellant before the High Court) to establish before the concerned authorities that they

are entitled to the benefit under Section 5(3) of the Central Sales Tax Act, 1956, for

short 'the Act', with respect to the sandalwood purchased in the auction held on 25th

February 1999. Consequent upon such establishment, the respondent was held entitled

to get the refund amount paid towards sales tax and release of the bank guarantee. On

failure of the respondent to establish his entitlement to get the benefit of Section 5(3) of

the Act, the appellants herein were held entitled to enforce the bank guarantee and

realise the amount.

Counsel for the respondent has brought to our notice that one of the bank

guarantee furnished by the appellant has been released by the District Forest Officer

vide his order dated 22.2.2002. It has also been brought to our notice the Commercial

Sales Tax Officer's order dated 10th March 2003 wherein the officer has accepted the

fact that the respondent had exported the goods and accepted their Form-H.

Counsel for the appellant pleads ignorance of the orders passed by the

District Forest Officer dated 22.2.2002 and the order dated 10th March 2003 of

Commercial Sales Tax Officer. Counsel seeks time to get instructions. Counsel for the

appellant should also seek instructions as to whether the appellant has paid the entire

auction money or not.

Adjourned by three weeks.

( RAVI P. VERMA )

( KANWAL SINGH )

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Court Master

Court Master

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