

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). 7967/2004

M/S. BALAJEE INGOT INDIA PVT. LTD.

Appellant(s)

VERSUS

UNION OF INDIA & ANR.

Respondent(s)

(with interim relief and office report)
WITH
C.A. No. 7453/2011

Date : 24/04/2015 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. SIKRI
HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN

For Appellant(s)

Mr. Gaurav Agrawal, Adv.

Mr. R. Santhanam, Adv.
Mr. K.K.L. Gautam, Adv.
Mr. Bharat Agrawal, Adv.
Mr. Hitesh Rai, Adv.
Mr.A.P. Sinha, Adv.
Mr. Rajendra Singhvi, Adv.
Mr. Brij Bhusan, Adv.

For Respondent(s)

Ms. Pinky Anand, ASG
Mr. Yashank Adhyaru, Sr. Adv.
Ms. Nisha Bagchi, Adv.
Ms. Ruksana Chowdhary, Adv.
Ms. Pooja Sharma, Adv.
Mr. B. Krishna Prasad, Adv.

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

The appeals are disposed of in terms of the Signed
Order.

Signature Not Verified

Digitally signed by
Rajni Mukhi
Date: 2015.04.30
11:26:50 IST

(Rajni Mukhi)
Sr. P.A.

(Rajinder Kaur)
Court Master

Reason:

(Signed Order is placed on the file)
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 7967 OF 2004

M/S. BALAJEE INGOT INDIA PVT. LTD.

APPELLANT

VERSUS

UNION OF INDIA & ANR.

RESPONDENTS

WITH

CIVIL APPEAL NO. 7453 OF 2011

M/S. PUNJAB BEARING INDUSTRIES PVT. LTD.

APPELLANT

VERSUS

UNION OF INDIA & ORS.

RESPONDENTS

O R D E R

All these appellants had, in their writ petitions filed in the High Court, challenged the vires of Section 3-A of Central Excise Act, 1944 as well as Rules made thereunder. Perusal of the judgments of the High Court reveals that though this question about the vires was specifically raised and argued but that has not been answered by the High Court on the ground that controversy in respect thereof has already been settled by this Court in the earlier judgments, namely, Union of India Vs. Supreme Steels and General Mills, 2001 (133) ELT 513 as well as Commissioner of Central Excise & Customs Vs. M/s. Venus Castings (P) Ltd. We have gone through those judgments which are annexed with the paper books and find that the issue of vires of the aforesaid provision was not gone into by the Supreme Court in those cases as challenge was given up by the learned counsel appearing in both the appeals.

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Therefore, the High Court wrongly observed that the controversy in respect of constitutional validity of the aforesaid provision stands settled. On this ground alone we set aside the impugned judgments and remit the matters back to the High Court to decide the aforesaid issue.

The appeals are disposed of.

.....J.
[A.K.SIKRI]

.....J.
[ROHINTON FALI NARIMAN]

NEW DELHI;
APRIL 24, 2015