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C.A.No. 6582 OF 2000

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ITEM No.105

COURT No. 1

SECTION III

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No. 6582 of 2000@@
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Karnataka Power Corpn. Ltd.

Appellant

VERSUS

Commnr. of Customs (Appeals), Chennai & Anr.

Respondents

(With office report)

With Civil Appeal No. 6583 of 2000

(With office report)

Civil Appeal No. 6586 of 2000

(With office report)

Date : 03/04/2002 These appeals were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE N. SANTOSH HEGDE

HON'BLE MR. JUSTICE D.M. DHARMADHIKARI

For Appellant (s)

Mr. Raju Ramachandran, Sr. Adv.
Mr. K.G. Raghavan, Adv.
Ms. Priyanjali Yadav, Adv.
Ms. Shiraz Contractor Patodia, Adv.
Mr. Anirudh Sethi, Adv.

For Respondent(s)

Mr. R.P. Bhatt, Sr. Adv.
Ms. Nisha Bagchi, Adv.
Ms. Rekha Pandey, Adv.
Mr. B. Krishna Prasad, Adv.

UPON hearing counsel the Court made the following

O R D E R

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Heard Mr. Raju Ramachandran and Mr. R.P. Bhatt,
learned counsel, from 2.50 p.m. to 3.05 p.m.

The civil appeals are ordered in terms of the signed
order.

No order as to costs.

(T.I. Rajput)
Court Master

(Shelly Sengupta)
Court Master

8501.64/9801 as already claimed."

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There was no reply to that letter but, on 3rd January, 1995, the Assistant Collector of Customs declined their application. The appellants filed an appeal before the Collector (Appeals). He dismissed the appeal; he found that at the appellate stage the appellants had changed their stand regarding the classification of the epoxy coils. The order of the Collector (Appeals) was challenged by the appellants before the Tribunal. In their memo of appeal, they impugned the aforesaid finding of the Collector (Appeals) and added that he had failed to notice that the appellants had amended their stand on classification as early as on 27th August, 1994/25th August, 1994 and copies of those letters were annexed to the memos of appeal. Even so, the Tribunal stated: "This raises a question of law as to whether, when a new classification is suggested before an appellate authority, the consequential relief flowing out of it can become time-barred, if the original issue pertained to a refund claim on other grounds?" The Tribunal considered this question and concluded against ...3/-

the appellants.

It is plain from what has been stated above that the Tribunal has misdirected itself. There is no question but that the appellants had sought amendment before the Assistant Collector of Customs himself and it was in that light that the issue had to be decided. We are of the view, therefore, that the orders of the Assistant Collector of Customs, the Collector (Appeals) and the Tribunal must be set aside and the matter restored to the file of the Assistant Collector of Customs to be decided afresh on the basis of the claim of the appellants contained in the letters dated 27th August, 1994/25th August, 1994.

Order on the appeals accordingly.

No order as to costs.

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.....J.@@
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(N. Santosh Hegde)@@
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.....J.@@
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(D.M. Dharmadhikari)@@
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New Delhi,
April 03, 2002.