

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petitions for Special Leave to Appeal (Civil) Nos.15861-15862/2011

(From the judgement and order dated 10/02/2011 in WP No.4937/2010,WP No.4938/2010 of The HIGH COURT OF KARNATAKA AT BANGALORE)

M/S UPLUS BATTERIES P.LTD.& ANR Petitioner(s)

VERSUS

UNION OF INDIA & ANR Respondent(s)

(With appln(s) for placing addl. facts and documents on record and with prayer for interim relief and office report)

Date: 07/12/2011 These Petitions were called on for hearing today.

CORAM :

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

For Petitioner(s) Mr. S.K. Bagaria, Sr. Adv.
Mr. Joseph Pookkatt, Adv.
Mr. Prashant Kumar, Adv.
Mr. B.S. Iyengar, Adv.
for M/S. Ap & J Chambers,Advs.

For Respondent(s) Mr. R.P. Bhatt, Sr. Adv.
Ms. Rashmi Malhotra, Adv.
Mr. Arvind K Sharma, Adv.
Mr. B. Krishna Prasad,Adv.

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

Leave granted.

The appeals stand disposed of in terms of the signed order with no order as to costs.

[Charanjeet Kaur] [Kusum Gulati]
Court Master Court Master

[Signed order is placed on the file]
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.10770-10771 OF 2011
(Arising out of SLP(C) Nos. 15861-15862/2011)

M/s Uplus Batteries P. Ltd. & Anr. .. Appellant(s)

Versus

Union of India & Anr. .. Respondent(s)

O R D E R

Leave granted.

This appeal, by special leave, is directed against

final order dated 10th February, 2011 passed by a Division Bench of the High Court of Karnataka at Bangalore in W.P. Nos. 4937-38 of 2010. By the impugned order, the High

Court has upheld the order passed by the Customs excise and Service Tax Appellate Tribunal (hereinafter referred to as "Tribunal") directing the appellants to deposit an amount of Rs. 10 Crores against the demand of anti dumping duty of Rs.16,64,78,338.00 and the penalty imposed, as a pre-condition for entertainment of their appeals by the Tribunal.

Having regard to the nature of the order we propose to make, we deem it unnecessary to state the facts giving rise to the instant appeals.

Mr. Bagaria, learned senior counsel appearing for the appellants submits that the impugned direction by the

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High Court would result in undue hardship to the appellants as their financial condition is not very sound.

In support

of the submission, learned counsel has invited our attention to a comparative statement indicating the financial health of the company as on 31st March 2009 and 31st March, 2010.

Learned counsel thus, submits that the said condition being onerous, the same may be waived and

the appeals before the Tribunal, which already stand dismissed on account of non-compliance with the order of pre-deposit, may be revived and decided on merits, without insisting on any pre-deposit.

Mr. R.P. Bhatt, learned senior counsel appearing for the Revenue on the other hand, submits that having regard

to the nature of the levy and the quantum of the amount

involved, the impugned direction cannot be said to be unreasonable. Learned counsel asserts that, being in the

nature of a discretionary order, this Court may not interfere with the same.

Having perused the documents placed on record by the appellants, we are of the opinion that the ends of justice would be served if the appellants are directed to deposit an amount of Rs. 5 Crores as against Rs. 10 Crores, directed by the Tribunal. Accordingly, we direct that if

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the appellants deposit the said amount within six weeks from today, their appeals, being Customs Appeal Nos. 387 & 388 of 2009, shall be revived by the Tribunal and disposed of on merits.

The appeals stand disposed of in above terms with no order as to costs.

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[D.K. JAIN, J.]

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[ANIL R. DAVE, J.]

NEW DELHI,
DECEMBER 07, 2011.