

N
C.A.No. 2070 OF 2000
.UP 10 2; Draft, smtst; -n -PA4 -dFX-NORMAL -y -e; dumbp
L.....T.....T.....T.....T.....T.....T.....T.....T.....T.....R

ITEM NO.120 COURT NO. 2 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.2070/2000 @@
AA

Commnr. of Customs (Appeals) Kandla Appellant (s)

VERSUS

Bayer ABS Ltd. Respondent (s)
(With appln. for stay and office report)

Date : 13/03/2001 This appeal was 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) Mr. Soli J. Sorabjee, A.G.
Mr. G. Venkatesh Rao, Adv.
Mr. B.K. Prasad, Adv.

For Respondent (s) Ms. Meenakshi Arora, Adv.

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

....L.....I.....T.....T.....T.....T.....T.....T.....J
.SP2

The civil appeal is allowed. No order as to costs.

.SP1 (N. Annapurna) (Shelly Sengupta)
Court Master Court Master

(Signed order is placed on the file.)

.PA
L.....T.....T.....T.....T.....T.....T.....T.....T.....T.....J

IN THE SUPREME COURT OF INDIA@@
AAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAA

CIVIL APPELLATE JURISDICTION@@
AAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAA

CIVIL APPEAL NO. 2070 OF 2000@@
CCCCCCCCCCCCCCCCCCCCCCCCCCCC

Commnr. of Customs (Appeals), Kandla

....Appellant(s)

versus

Bayer ABS Ltd.

...Respondent(s)

O R D E R@@
CCCCCCCCC

L.....L.....I.....T.....T.....T.....T.....T.....T.....T.....J
.SP2

It is common ground that the appeal is covered by the decision of this Court in Union of India vs. Solar Pesticides@@
CCCCCCCCCCCCCCCC CCCCCCCCCCCCCCCCCC
Pvt.Ltd. [(2000) 2 SCC 705]. Therefore, following that judgment,@
CCCCCCCCC
the appeal is allowed. The order under appeal is set aside. The matter is remanded to the Assistant Commissioner to decide the refund claim afresh, as to whether or not the incidence of the duty on the imported raw material had been passed on by the respondent to any other person. Liberty to the assessee to produce evidence in this behalf.

No order as to costs.

.SP1

.....J.
(S.P. Bharucha)

.....J.
(N. Santosh Hegde)

.....J.
(Y.K. Sabharwal)

New Delhi,
March 13, 2001.