

ITEM NO.43

COURT NO.2

SECTION IIIA

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

Petition(s) for Special Leave to Appeal (C) No(s). 17577/2011

(From the judgment and order dated 17.09.2009 OF THE HIGH COURT OF JUDICATURE AT BOMBAY IN INCOME TAX APPEAL NO. 1020 of 2009)

C.I.T., MAHARASHTRA

Petitioner(s)

VERSUS

KINETIC ENGINEERING LTD.
(with office report)

Respondent(s)

Date : 11/05/2015 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE T.S. THAKUR
HON'BLE MRS. JUSTICE R. BANUMATHI

For Petitioner(s) Mr. T.C.Sharma, Adv.
MR. Rajeev Nanda, Adv.
MR. Smaeer Kachawaha, Adv.
Ms. Anil Katiyar, Adv.
Mr. B. V. Balaram Das, Adv.

For Respondent(s) Mr. Chinmoy Khaladkar, Adv.
Mr. Amol Chitale, Adv.
Ms. Pragya Baghel, Adv.

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

Leave granted.

The appeal is allowed in terms of the signed order.

(Shashi Sareen)
Court Master

(Veena Khara)
Court Master

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No. 4341 OF 2015
(Arising out of SLP(C) No.17577 of 2011)

COMMISSIONER OF INCOME TAX ... Appellant

Versus

KINETIC ENGINEERING LTD. ...Respondent

ORDER

Delay condoned.

Leave granted.

High Court of Bombay has while dismissing Income Tax Appeal No.1020 of 2009 primarily placed reliance upon the fact that the issues raised in the said appeal relevant to assessment year 1996-97 were similar to those arising for assessment years 1991-1992 to 1994-1995 orders regarding which years have not been assailed by the department. Learned counsel for the appellant, however, points out that the High Court has committed a factual mistake in observing that orders relevant to assessment years 1991-92 to 1994-95 had not been assailed in appeal. As a matter of fact Income Tax Appeals No.306 to 312 of 2006 relevant to those years were also before the High Court which were dismissed

by the High Court on the ground of the appellant's failure to remove certain office objections. It is urged that the High Court has upon applications moved by the appellant recalled the orders of dismissal and restored the said appeals which are currently pending adjudication. To the same effect is an additional affidavit filed by learned counsel for the appellant and certain documents placed on record before us.

In the above backdrop, we see no reason why the order passed by the High Court should not be set aside and the matter remitted back to the High Court for hearing and disposal along with Income Tax appeals relevant to the years 1991-1992 to 1994-1995. We accordingly allow this appeal, set aside the order passed by the High Court and remit the matter back to the High Court with the request that the appeals be heard together and disposed off in accordance with law.

.....J.
(T.S. THAKUR)

.....J.
(R.BANUMATHI)

**New Delhi,
May 11, 2015**