

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). 120 OF 2001

M/S. PASUPATI SPINNING & WEAVING MILLS LTD.  
(s)

Appellant

VERSUS

COLLECTOR OF CENTRAL EXCISE, NEW DELHI  
Respondent(s)

(With Appl.(s) for stay and with office report)

Date: 16/02/2006 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHAN

HON'BLE MR. JUSTICE S.H. KAPADIA

For Appellant(s)

Mr. V. Lakshmikumaran, Adv.

Mr. Rajesh Kumar, Adv.

Mr. Alok Yadav, Adv.

Mr.Karan Talwar, Adv.

For Respondent(s) Mr. Rajeev Dutta, Sr. Adv.

Mr. Rupesh Kumar, Adv.

Mr. P. Parmeshwaran, Adv.

UPON hearing counsel the Court made the following

O R D E R

The Civil Appeal is dismissed in terms of the signed order.

No costs.

(P.D. BALODI)

(KANWAL S

INGH)

A.R.-cum-P.S.

Court

Master

[signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.120 OF 2001

M/S. PASUPATI SPINNING & WEAVING MILLS LTD. APPELLANT (S)

VERSUS

COLLECTOR OF CENTRAL EXCISE, NEW DELHI  
RESPONDENT(S)

O R D E R

The appellant, being aggrieved, has filed this appeal against the final

judgment and order No.209/2000-D dated 8.6.2000 passed by the Customs, Excise &

Gold (Control) Appellate Tribunal, New Delhi (for short "the Tribunal") in Appeal

No.E/574/93-D. The Tribunal by the impugned order has dismissed the appeal filed by

the appellant and confirmed the demand of duty and penalty imposed on the

appellant.

has made Learned senior counsel appearing for the assessee-appellant

submissions based on certain facts of which no factual foundation was laid either in

the reply to the show cause notice issued to it or before any of the authorities below. It

has also not led any evidence in support of those facts.

Under the circumstances, we are not inclined to interfere with the impugned

order which is based mainly on facts except to the extent that it is not a case for levy of

penalty as the classification list filed by the assessee-appellant had already been

approved as 'Cellulosic Spun Yarn' containing 'Non-cellulosic waste' by the

Department.

Accordingly, we dismiss the appeal but, in the circumstances of this case,

penalty imposed by the Collector, Central Excise and confirmed by the Tribunal, is

waived. No costs.

.....J.

( ASHOK BHAN )

.....J.

( S.H. KAPADIA )

New Delhi,

February 16, 2006.