

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6466 OF 2005

COMMISSIONER OF CENTRAL EXCISE, VADODARA ... Appellant

VERSUS

JEM INDUSTRIES LTD. ... Respondent

O R D E R

After hearing the learned counsel for the parties, we agree with the submission of the learned counsel appearing for the Revenue that the Customs, Excise and Service Tax Appellate Tribunal (hereinafter referred to as 'CESTAT') has committed an error in the impugned order in not considering the question of "commission" on the ground that it was not raised in the show cause notice. We find from the reading of the show cause notice that it was specifically raised therein as an independent issue. However, instead of remanding the case back to the CESTAT, it would be more appropriate that the adjudicating authority decides this issue in the first instance.

The impugned order of the CESTAT is set aside to this extent and the issue of commission is remitted back to the adjudicating authority which shall decide the same on merits after giving opportunities to both the parties to make their submissions and also to place material that they want to

place in support of their respective submissions so far as the aforesaid issue is concerned.

The appeal is disposed of accordingly.

....., J.
[A.K. SIKRI]

....., J.
[ROHINTON FALI NARIMAN]

New Delhi;
August 04, 2015.

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. 6466/2005

COMMISSIONER OF CENTRAL EXCISE, VADODARA

Appellant(s)

VERSUS

JEM INDUSTRIES LTD.

Respondent(s)

Date : 04/08/2015 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. SIKRI

HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN

For Appellant(s)

Mr. Yashank Adhyaru, Sr. Adv.

Mr. Subhash C. Acharya, Adv.

Mr. Ritesh Kumar, Adv.

Mr. B. Krishna Prasad, Adv.

For Respondent(s)

Mr. Ramesh Singh, Adv.

Ms. Bina Gupta, Adv.

Mr. Abhay A. Jena, Adv.

UPON hearing the counsel the Court made the following
O R D E RThe appeal is disposed of in terms of the signed
order.(Nidhi Ahuja)
COURT MASTER(Suman Jain)
COURT MASTER

[Signed order is placed on the file.]