

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

RECORD OF PROCEEDINGS

CIVIL APPEAL NOS.2598-2603 OF 2001

COMMNR. OF CENTRAL EXCISE, SURAT
t(s)

Appellan

VERSUS

HIGH LAND DYE WORKS P. LTD. & ORS.
nt(s)

Responde

(with application for stay and with office report)

Date: 18/04/2006 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHAN

HON'BLE MR. JUSTICE MARKANDEY KATJU

For Appellant(s)

Mr. B.B.Singh, Adv.

Mr. K.Swami, Adv. for

Mr. P.Parmeswaran, Adv.

For Respondent(s)

Mr. V.Sridharan, Adv.

Mr. Alok Yadav, Adv. for

Mr. V.Balachandran, Adv.

UPON hearing counsel the Court made the following

O R D E R

The Appeals are dismissed. Parties shall bear their own costs.

(Parveen Kr. Chawla)

(Phoolan Wati Arora)

Court Master

Court Master

[Signed Order is placed on the File]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.2598-2603/2001

COMMISSIONER OF CENTRAL EXCISE, SURAT

APPELLANT

VERSUS

HIGH LAND DYE WORKS P. LTD. & OTHERS

RESPONDENTS

O R D E R

These are Statutory Appeals filed under Section 35L(b) of the Central

Excise Act, 1944 (for short 'the Act') against the Final Order No. C1/1729-34

WZB/2000 dated 10.05.2000 in Appeal Nos. E/4505. 4506, 4529, 4530, 4499

and 4500 of 1994 passed by the Customs, Excise and Gold (Control) Appellate Tribunal, West Regional Bench at Mumbai (for short 'the Tribunal'), whereby the Tribunal allowed the Appeals filed by the assesseees-respondents; set aside the order in original and held that the extended period of limitation was not available to the department as all facts had been disclosed by the respondents and were in the knowledge of the department. It was further held that there was no suppression of facts by the respondents.

Respondents-assesseees were served with a show cause notice seeking action against the respondents as below:

"a. Recover differential duty of Rs.74,61,625/- on home clearances valued at Rs.7,28,45,173/- during the period from May 1987 to March 1992 under Rule 9(2) of CER, 1944 read with proviso to sub-section (i) of Section 11A of CEA, 1944.

b. Debit/reverse the Modvat credit of duty taken at higher rate in respect of duty paid goods received from among these units under Rule 571 of CER, 1944.

c. Confiscate land, building, plant and machinery belonging to these units under Rule 571 of CER, 1944.

d. impose penalty on all the parties under Rule 173-Q (1) and rule 209-A of CER, 1944."

Extended period of limitation was also invoked as allegedly there was

suppression of facts by the respondents-assesseees. The order-in-original

confirmed the demand raised as per show cause notice and held that the re

being suppression of facts, the department was entitled to invoke the extended

period of limitation.

In Appeal, the Tribunal after discussing the entire evidence, has come

to the conclusion that there was no suppression of facts by the respondents-

assesseees and, therefore, the department was not entitled to invoke the

extended period of limitation.

In our view, the finding recorded by the Tribunal is a finding of fact

which does not call for interference and accordingly these appeals are

dismissed. Parties shall bear their own costs.

J.

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[ASHOK BHAN]

NEW DELHI ;
J.

APRIL 18, 2006

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[MARKANDEY KATJU]