

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

Petition(s) for Special Leave to Appeal(Civil)...CC 9095/2000

(From the judgement and order dated 29/03/2000 in RCP 9/99
of The HIGH COURT OF MADRAS)

COMMNR. OF CENTRAL EXCISE, COIMBATORE

Petitioner (s)

VERSUS

M/S. ELGI EQUIPMENTS LTD.

Respondent (s)

(With I.A.No.1 - Appln(s). for c/delay in filing SLP)

Date : 08/01/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SYED SHAH MOHAMMED QUADRI
HON'BLE MR. JUSTICE S.N. PHUKAN

For Petitioner (s) Mr. Soli J. Sorabjee, AG.
Mr. Dhruv Mehta, Adv.
Mr. B. Krishna Prasad,Adv.

For Respondent (s)

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

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

Delay is condoned.
Leave is granted.
The appeal is dismissed. No costs.

.SP1

(S.Thapar)

(Kanwal Singh)@@

AA

PS to Registrar

Court Master@@

AA

The signed order is placed on the file.

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.....OF 2001@@
CCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCC
(Arising out of SLP(C)No.....CC 9095/2000)

Commissioner of Central Excise, coimbatore Appellant (s)

Versus

M/s Elgi Equipments Ltd. Respondent (s)

O R D E R@@
CCCCCCCC

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

Delay is condoned.

Having heard learned Attorney General, we are in entire agreement with the view expressed by the High Court that Section 11AC of the Central Excise Act, 1944, is prospective in operation and the illegality committed prior to insertion of Section 11AC in the Act cannot be the subject matter of penalty under the said provision.

The learned Attorney General has placed reliance on the judgment of this Court in Mithilesh Kumari Vs. Prem@@
CCCCCCCCCCCCCCCCCCCC CCCC
Behari Khare (1989 (2) SCC 95). But the following observation@@
CCCCCCCCCCCC
in that decision need to be noted:

.....L.....T.....T.....T.....T.....T.....T.....J.....R
.SP1

"The presumption against retrospective operation is strong in cases in which the statute, if operated retrospectively, would prejudicially@@
CCCCCCCCCCCCCCCCCCCC
affect vested rights or the illegality of the@@
CC
past transactions, or impair contracts, or impose@@
CCCCCCCCCCCCCCCCCCCC
new duty or attach new disability in respect of past transactions or consideration already passed." (emphasis supplied)

-2-

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

This observation supports our view.

For this reason there is no justifiable ground to grant leave to appeal against the impugned order of the High Court. The Special Leave Petition is, therefore, dismissed.

.SP1

.....J
(Syed Shah Mohammed Quadri)

New Delhi,
January 08, 2001

.....J
(S.N. Phukan)