

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.257 OF 2005

M/S. CARRARA MARBLE & GRANITE INDS.

Appellant (s)

VERSUS

COMMNR. OF CUSTOMS, KANDLA

Respondent(s)

(With appln(s) for stay, permission to submit additional document(s),
condonation of delay in filing appeal and office report)

Date: 01/12/2006 This appeal was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C.K. THAKKER

For Appellant(s) Mr. Amar Dave,Adv.

Mr. Mahesh Agarwal,Adv.

Mr. Rishi Agrawala,Adv.

Mr. E.C. Agrawala,Adv.

Mr. Gaurav Goel,Adv.

Mr. Amit Sharma,Adv.

Mr. Dhruvad Kashyap,Adv.

For Respondent(s) Mr. K. Radhakrishnan,Sr.Adv.

Mr. Navin Prakash,Adv.

Mr. B. Krishna Prasad,Adv.

UPON hearing counsel the Court made the following

O R D E R

Permission to file additional documents is granted.

Delay condoned.

The civil appeal is admitted. It is disposed of.

[T.I. Rajput]

A.R.-cum-P.S.

[V.P. Tyagi]

Assistant Registrar

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.257 OF 2005

M/s. Carrara Marble and Granite Inds.

(s)

...Appellant

Versus

Commissioner of Customs, Kandla

...Respondent(s)

O R D E R

Delay condoned.

The civil appeal is admitted.

By the order under challenge, the Customs, Excise and Service Tax Appellate Tribunal has upheld the confiscation of the marbles imported by the appellant. Under the advance licence, the appellant was allowed to import relevant raw marble slabs. The confiscation is on the ground that the import is not of 'raw marble slabs' but is of 'semi finished marble'. On examination of the imported marble slabs, the report made was that, "Checked the description, verified, not raw/rough, verified, not polished and not cut to regular size and shape, checked size and quantity". On the basis of this report, the conclusion reached is that the import is not of raw marble slabs. Since we are remanding the matter back to the adjudicating authority, at this

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stage, we wish to say nothing on merits, except observing that the report is somewhat self-contradictory. The adjudicating authority will have to decide whether the imported consignment can be said to be raw marble slabs if the goods are neither polished nor cut to size and shape. The matter requires fresh examination. We may, however, clarify that the order upholding

confiscation of the excess goods not covered by the licence is not
interfered with.

Under the aforesaid circumstances, setting aside the
impugned order, we remand the matter to the adjudicating
authority for decision afresh in accordance with law without
being influenced by the observations made in this order.

The civil appeal is, accordingly, disposed of.

.....CJI.

[Y.K. SABHARWAL]

.....J.

[C.K. THAKKER]

New Delhi,

December 01, 2006.