

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S).10036/2010

COMMISSIONER OF CENTRAL EXCISE & CUSTOMS

APPELLANT(S)

VERSUS

M/S R.A.SHAIKH PAPER MILLS P.LTD.

RESPONDENT(S)

WITH

SLP(C) No. 2412/2011, SLP(C) No. 12549/2011, SLP(C)
No.
1764/2012, SLP(C) No. 35358/2011 & SLP(C) No. 29737/2011

O R D E R

Though, the learned Additional Solicitor General has referred to the Judgment of this Court in UNION OF INDIA v. M/S RAJASTHAN SPINNING & WEAVING MILLS (2009) 13 SCC 448 wherein it is decided that mandatory penalty contained in Section 11AC of the Central Excise Act cannot be reduced by the courts, learned counsel for the respondent has drawn our attention to the Circular dated May 22, 2008 issued by the Central Board of Excise & Customs which, inter alia, states as under:

"In view of the points as discussed above, Board has decided that in all the cases, wherein penalty under Section 11AC of the Act is imposed, the provisions contained in first and second proviso to Section 11AC should be mandatorily mentioned in the

Signature Not Verified

Digitally signed by
ASHWANI KUMAR
Date: 2016.04.25

Order-in-Original itself by the adjudicating

authority."

14:59:56 IST
Reason:

It is not in dispute that, in these cases, there was no

mention of penalty under Section 11AC of the Central Excise Act in

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the show cause notice and also in the Order-in-Original dated

Ms. Shweta Garg, Adv.

UPON hearing the counsel the Court made the following

O R D E R

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The Civil Appeal and special leave petitions are dismissed in terms of the signed order.

Interlocutory application(s) pending, if any, shall stand disposed of accordingly.

(Ashwani Thakur)

COURT MASTER

(Signed order is placed on the file)

(Tapan Kr. Chakraborty)

COURT MASTER