ITEM NO.46 COURT NO.11 SECTION XV

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 (C)No(s).2959-2960/2009

(From the judgement and order dated 27/03/2008 in FA No. 2940/2007 with CA No. 8363/2007 of The HIGH COURT OF GUJARAT AT AHMEDABAD)

EMPLOYEES STATE INSURANCE CORP. Petitioner(s)

VERSUS

M/S.CHAMEX INDUSTRIES Respondent(s)
(With office report)

Date: 29/03/2010 These Petitions were called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Petitioner(s) Mr.Y. Anand,Adv.,
Mr.Sanjeev Anand,Adv.

For Respondent(s)
Mr.Shree Pal Singh,Adv.(N/P)

UPON hearing counsel the Court made the following

O R D E R

We have heard the learned counsel for the petitioner and perused the record.

The petitioner has questioned the correctness of order dated 27.3.2008 passed by the learned single Judge of Gujarat High Court in F.A. No.2940/07 whereby he dismissed the appeal preferred by the petitioner against the order of the Employees Insurance Court in Application No.26/2002.

A reading of the order passed by ESI Court shows that after taking note of the pleadings of the parties and evidence produced by them, the learned presiding officer recorded a

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finding of fact that the respondent was not undertaking any manufacturing process and as such it was not factory within the meaning of Section 2(k)of the Factories Act.

The learned single Judge of the High Court though not required under law, re-appreciated evidence and affirmed the finding of fact recorded by the ESI Court. We, therefore, do not find any valid ground to entertain the petitioner's challenge to the order passed by the High Court.

With the above observations, the special leave petition is dismissed.

(V.K.Sharma)
AR-cum-PS

(Phoolan Wati Arora)
Court Master