

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1545 OF 2012
(@ SPECIAL LEAVE PETITION(C)NO.26078 OF 2011)

COMMISSIONER OF CENTRAL EXCISE. DELHI ... APPELLANT

VERSUS

M/S.MINIMAX INDUSTRIES ... RESPONDENT

O R D E R

1. Leave granted.

2. This appeal is directed against the judgment and order passed by the High Court of Delhi in CEAC No.12/2010 dated 17.01.2011.

3. The Adjudicating Authority, while deciding the issue whether exemption should be granted to the Respondent-Assessee under Notification No.1/93 dated 28.02.2003 had denied the claim of the Assessee. Aggrieved by that, the assessee had carried the matter by filing an appeal before the First Appellate Authority. The appeal was dismissed by the First Appellate Authority. Against the said order, the Assessee had carried the matter before the Central Excise &

Service Tax Appellate Tribunal (for short 'CESTAT'). The CESTAT, by its order dated 12.01.2010 has reversed the findings and the conclusions reached by the Adjudicating Authority as well as the First Appellate Authority.

4. Aggrieved by the same, the Revenue had approached the High Court in C.E.A.C. No.12/2010. The High Court, while affirming the view of the CESTAT has rejected the appeal filed by the Revenue. Aggrieved by the same, the Revenue is before us in this appeal.

5. After hearing the matter for some time, we notice that the Revenue has not produced the order passed by CESTAT dated 10.01.2010 and the only order produced by them is the interim passed by CESTAT and not the final orders against which the appeal had been preferred by the Revenue before the High Court.

6. In the absence of the order passed by the CESTAT on merits, which has been affirmed by the High Court, it would not be proper for us to decide the *lis* between the parties. Further, we would be handicapped while appreciating the stand of the Assessee as well as the Revenue, while

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appreciating the legal issues that the parties would urge before us. In that view of the matter, we reject the appeal solely on the ground that the Revenue has not filed the appropriate papers before this Court. The appeal is disposed of accordingly.

Ordered accordingly.

.....J.
(H.L. DATTU)

.....J.
(ANIL R. DAVE)

NEW DELHI;
FEBRUARY 02, 2012

