

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Civil Appeal No(s). _____ of 2019
(Diary No. 19143/2019)

Shree Bherav Diamond Tools Pvt. Ltd. Appellant(s)

VERSUS

The Commissioner of Central Excise
and Service Tax, Udaipur Respondent(s)

WITH

Civil Appeal No(s). _____ of 2019
(Diary No. 19365/2019)

Civil Appeal No(s). _____ of 2019
(Diary No. 19591/2019)

Civil Appeal No(s). _____ of 2019
(Diary No. 19612/2019)

Civil Appeal No(s). _____ of 2019
(Diary No. 19618/2019)

Civil Appeal No(s). _____ of 2019
(Diary No. 19513/2019)

Civil Appeal No(s). _____ of 2019
(Diary No. 19362/2019)

Civil Appeal No(s). _____ of 2019
(Diary No. 19369/2019)

Civil Appeal No(s). _____ of 2019
(Diary No. 19370/2019)

Civil Appeal No(s). _____ of 2019
(Diary No. 19509/2019)

Civil Appeal No(s). _____ of 2019
(Diary No. 19511/2019)

Civil Appeal No(s). _____ of 2019
(Diary No. 19512/2019)

Civil Appeal No(s). _____ of 2019
(Diary No. 19593/2019)

Civil Appeal No(s). _____ of 2019
(Diary No. 19605/2019)

Civil Appeal No(s). _____ of 2019
(Diary No. 19714/2019)

ORDER

Delay condoned.

The Customs, Excise and Service Tax Appellate Tribunal¹ has in its judgment dated 11 May 2018 furnished adequate reasons for coming to the following conclusion:-

“16.we are of the view that the clearances of all the manufacturing units will need to be clubbed and the benefit of duty free clearance under Notification 8/2003 is to be allowed to SBDTPL only. Consequently, we uphold the findings of the Adjudicating Authority regarding clubbing of the value of clearances.”

Having assessed the factual foundation which has been laid in paragraphs 10 to 15 of the impugned judgment, we see no reason to take any exception to these findings of fact. Hence, we decline to entertain the appeals on that aspect.

On the issue of valuation, Mr. P.S. Narasimha, learned Senior Counsel appearing on behalf of the appellants has urged that in reply to the show cause notice and in the grounds of appeal before the Tribunal, it was specifically pleaded that in addition to the three trading units, the appellant and the other concerns are clearing their goods through several other unrelated concerns. Hence, it was urged that the Tribunal was in error in coming to the conclusion that the duty is

1 “Tribunal”

required to be determined on the basis of the price at which the three trading units have ultimately sold the goods to the independent buyers. Reliance was placed on the decision of this Court in **Commissioner of Central Excise, Chandigarh vs. Bharti Telecom Ltd**²,

From the impugned decision of the Tribunal and particularly from the submissions which have been recorded on the aspect of valuation, we do not find that this point was specifically recorded as having been raised. If at all such a submission was addressed before the Tribunal during oral arguments but has not been dealt with, the appellants must make that grievance before the Tribunal. We record the request of Mr. P.S. Narasimha, learned Senior Counsel that the appellant would move appropriate proceedings in that regard before the Tribunal. We express no opinion whatsoever on the merits of such a grievance.

The Tribunal would be at liberty to consider any such application as may be made on behalf of the appellants. In order to enable the appellants to move the Tribunal, no coercive steps shall be taken to realise the balance of the demand for a period of four weeks from today, since it has been stated before this Court that 50 per cent of the demand has already been deposited.

The appeals are disposed of in the above terms.

.....J.
(Dr. Dhananjaya Y. Chandrachud)

.....J.
(Indira Banerjee)

New Delhi
July 4, 2019

ITEM NO.19 + 56

COURT NO.10

SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

CIVIL APPEAL Diary No(s). 19143/2019

(Arising out of impugned final judgment and order dated 11-05-2018 in EA No. 50047/2018 passed by the Custom Excise Service Tax Appellate Tribunal)

SHREE BHERAV DIAMOND TOOLS PVT LTD

Appellant(s)

VERSUS

THE COMMISSIONER OF CENTRAL EXCISE AND SERVICE TAX Respondent(s)

(FOR ADMISSION and I.R. and IA No.89012/2019-CONDONATION OF DELAY IN FILING and IA No.89014/2019-EX-PARTE STAY)

WITH

Diary No(s). 19365/2019 (XVII)

(IA No.90340/2019-CONDONATION OF DELAY IN FILING and IA No.90344/2019-STAY APPLICATION)

Diary No(s). 19591/2019 (XVII)

(IA No.90318/2019-CONDONATION OF DELAY IN FILING and IA No.90319/2019-EX-PARTE STAY)

Diary No(s). 19612/2019 (XVII)

(FOR ADMISSION and I.R. and IA No.90396/2019-STAY APPLICATION and IA No.90395/2019-CONDONATION OF DELAY IN FILING APPEAL)

Diary No(s). 19618/2019 (XVII)

(FOR ADMISSION and I.R. and IA No.90316/2019-CONDONATION OF DELAY IN FILING and IA No.90317/2019-STAY APPLICATION)

Diary No(s). 19513/2019

(FOR ADMISSION and I.R. and IA No.90746/2019-STAY APPLICATION and IA No.90745/2019-CONDONATION OF DELAY IN FILING APPEAL)

Diary No(s). 19362/2019 (XVII)

(IA No.90707/2019-CONDONATION OF DELAY IN FILING and IA No.90708/2019-STAY APPLICATION)

Diary No(s). 19369/2019 (XVII)

(FOR ADMISSION and I.R. and IA No.90583/2019-CONDONATION OF DELAY IN FILING and IA No.90585/2019-STAY APPLICATION)

Diary No(s). 19370/2019 (XVII)

(IA No.91692/2019-CONDONATION OF DELAY IN FILING and IA No.91700/2019-STAY APPLICATION)

Diary No(s). 19509/2019 (XVII)
(IA No.90642/2019-CONDONATION OF DELAY IN FILING and IA
No.90643/2019-STAY APPLICATION)

Diary No(s). 19511/2019 (XVII)
(FOR ADMISSION and IA No.91453/2019-EX-PARTE STAY and IA
No.91451/2019-CONDONATION OF DELAY IN FILING APPEAL)

Diary No(s). 19512/2019 (XVII)
(FOR ADMISSION and I.R. and IA No.90665/2019-CONDONATION OF DELAY
IN FILING and IA No.90666/2019-STAY APPLICATION)

Diary No(s). 19593/2019 (XVII)
(IA No.91412/2019-CONDONATION OF DELAY IN FILING and IA
No.91413/2019-STAY APPLICATION)

Diary No(s). 19605/2019 (XVII)
(FOR ADMISSION and IA No.91452/2019-STAY APPLICATION and IA
No.91446/2019-CONDONATION OF DELAY IN FILING APPEAL)

Diary No(s). 19714/2019 (XVII)
(FOR ADMISSION and IA No.91432/2019-STAY APPLICATION and IA
No.91430/2019-CONDONATION OF DELAY IN FILING APPEAL)

Date : 04-07-2019 These matters were called on for hearing today.

CORAM : HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MS. JUSTICE INDIRA BANERJEE

Counsel for the parties :-

Ms. Madhurima Tatia, AOR

Mr. P.S. Narasimha, Sr. Adv.

Ms. Aruna Gupta, Adv.

Mr. A. Ramesh, Adv.

Mr. Syed Ahmad Naqvi, Adv.

Mr. Saju Jakob, Adv.

Mr. Gaurav, Adv.

For Respondent(s)

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

Delay condoned.

The appeals are disposed of in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(MANISH SETHI)
COURT MASTER (SH)

(SAROJ KUMARI GAUR)
BRANCH OFFICER

(Signed order is placed on the file)