

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S).10258-10296 OF 2011

COMMISSIONER OF CUSTOMS ETC. APPELLANT(S)

VERSUS

M/S. VARIETY LUMBERS  
PVT.LTD.ETC. ETC. RESPONDENT(S)

WITH

CIVIL APPEAL NO(S).6925-6926/2012

CIVIL APPEAL NO(S).16918/2017

CIVIL APPEAL NO(S).16919/2017

CIVIL APPEAL NO(S).4329-4338/2018

(@ SLP(C)Nos.10929-10938/2018 @ Diary No(s). 1586/2018 )

O R D E R

CIVIL APPEAL NO(S).10258-10296 OF 2011

1. We have heard the learned counsels for appellant-Revenue. The issue turns on an interpretation of the notification dated 14.09.2007 which contemplates refund of additional duty of customs paid by the importer of goods under Section 3(5) of the Customs Tariff Act, 1975. The notification in the main part contemplates that the import must be for the purpose of subsequent sale and is *inter alia* subject to the condition that in the invoice issued in respect of the goods sold (said goods)

it is mentioned that credit of the additional duty of customs levied under sub-Section (5) of Section 3 of the Customs Tariff Act, 1975 is not admissible.

2. The learned counsel for the appellant-Revenue has sought to dislodge the view taken by the Customs, Excise and Service Tax Appellate Tribunal and the High Court by contending that the subsequent sale must be in the same form in which the goods were received on import. The contention advanced on behalf of the appellant-Revenue is not supported by a plain reading of the exemption notification which even if construed in the strictest terms does not permit such a view to be taken. That apart, the materials on record clearly shows that for purpose of transit of logs, the same necessarily had be reduced in size due to conditions imposed by the State for transport/movement of timber. The said fact itself would belie the stand of the Revenue. We, therefore, take the view that a mere conversion of imported logs in the Sawn Timber without loss of identity of the original product would not deprive the importer of the benefit of the exemption notification.

3. The appeals of the Revenue, therefore, are dismissed. The orders of the Tribunal and the High Court are affirmed.

4. Bank guarantees deposited by the respondent(s), be returned to them along with interest thereon, if any.

Civil Appeal Nos.6925-6926/2012, 16918/2017, 16919/2017 and C.A. @ Diary No(s). 1586/2018

1. Delay condoned.

2. Leave granted.

3. In view of the order passed in Civil Appeal Nos.10258-10296 of 2011, the present appeals are dismissed in same terms.

4. Bank guarantees deposited by the respondent(s), be returned to them along with interest thereon, if any.

.....,J.  
(RANJAN GOGOI)

.....,J.  
(R. BANUMATHI)

NEW DELHI  
APRIL 24, 2018

ITEM NO.102

COURT NO.3

SECTION III

**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(s). 10258-10296/2011

COMMISSIONER OF CUSTOMS ETC.

Appellant(s)

VERSUS

M/S. VARIETY LUMBERS PVT. LTD ETC. ETC.

Respondent(s)

IA No.126450/2017-PERMISSION TO FILE ADDITIONAL DOCUMENTS and IA  
 No.6739/2018-PERMISSION TO FILE ADDITIONAL DOCUMENTS )

WITH

C.A. No. 6925-6926/2012 (III)

C.A. No. 16918/2017 (XII-A)

( IA No.99631/2017-CONDONATION OF DELAY IN FILING and IA  
 No.99637/2017-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

C.A. No. 16919/2017 (XII-A)

( IA No.99463/2017-CONDONATION OF DELAY IN FILING and IA  
 No.99466/2017-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Diary No(s). 1586/2018 (XII-A)  
 (FOR ADMISSION and I.R. and IA No.32307/2018-CONDONATION OF DELAY  
 IN FILING and IA No.32308/2018-EXEMPTION FROM FILING C/C OF THE  
 IMPUGNED JUDGMENT and IA No.32304/2018-CONDONATION OF DELAY IN  
 REFILING)

Date : 24-04-2018 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI  
 HON'BLE MRS. JUSTICE R. BANUMATHI

For Appellant(s)

Mr. Rupesh Kumar, Adv.  
 Ms. Aruna Gupta, Adv.  
 Ms. Binu Tamta, Adv.  
 Mr. B. Krishna Prasad, AOR

For Respondent(s)

Mr. V. Lakshmikumar, Adv.  
 Mr. Dhruv Matta, Adv.  
 Mr. Saumya Dubey, Adv.  
 Mr. Aditya Bhattacharya, Adv.  
 Mr. Victor Das, Adv.  
 Ms. Apeksha Mehta, Adv.  
 Mr. Punit Dutt Tyagi, AOR

Dr. Ashok Saraf, Sr. Adv.

Mr. Kaushik Choudhury, AOR  
Mr. Pritam Baruah, Adv.

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

Civil Appeal Nos.10258-10296 Of 2011

The appeals are dismissed in terms of the signed order.

Consequently, all pending application(s) shall stand disposed of.

Civil Appeal Nos.6925-6926/2012, 16918/2017, 16919/2017 and C.A. @ Diary No(s). 1586/2018

Delay condoned.

Leave granted.

The appeals are dismissed in terms of the signed order.

Consequently, all pending application(s) shall stand disposed of.

(NEETU KHAJURIA)  
COURT MASTER

(ASHA SONI)  
BRANCH OFFICER

(Signed order is placed on the file.)