

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

Civil Appeal No(s). 1765/2009

COMMISSIONER OF CENTRAL EXCISE, MANGALORE

Appellant(s)

VERSUS

M/S KONKAN MARINE AGENCIES

Respondent(s)

O R D E R

It is stated by learned counsel for the Revenue that only five matters survive consideration. CA Nos. 1765/2009, 3501/2015, 10787/2016, 4576/2017, 9888/2011, 9887/2011, 5966/2011 are dismissed for low tax effect.

CA Nos. 5928-29-31/2011 are above the tax limit and survive for consideration. However, CA No. 5930/2011 and CA Nos. 5932-36/2011 are dismissed for low tax consideration.

CA No. 10763/2017

The Customs Excise & Service Tax Appellate Tribunal had allowed the assesses appeal in this case on the ground that the definition of taxable services was expanded with effect from 1.7.2010. So the Customs Excise & Service Tax Appellate Tribunal had relied upon its previous ruling in Velgi P. And Sons (Agencies) Pvt. Ltd. vs. Commissioner 2007 (8) STR236.

The Revenue, which is the appellant in this case, did not dispute that the order in Velgi P. And Sons (Agencies) Pvt. Ltd.

vs. Commissioner 2007 (8) STR236 was carried in appeal informing this Court vide order dated 24.03.2008 in CA No. 2429-30/2008 had dismissed the appeal and confirmed the order of the CESTAT. One of the grounds which persuaded the CESTAT to hold what it did was that the period of demand was prior to the amendment to the definition - in this case for the period 2002-2003 to 2006 i.e. much before 01.07.2010.

In view of these and following order made by this Court in CA Nos. 2429-30/2008, the present appeal has to suffer the same fate ; it is accordingly dismissed.

CA No. 3349/2017

The Customs Excise & Service Tax Appellate Tribunal had allowed the assesses appeal in this case on the ground that the definition of taxable services was expanded with effect from 1.7.2010. So the Customs Excise & Service Tax Appellate Tribunal had relied upon its previous ruling in Velgi P. And Sons (Agencies) Pvt. Ltd. vs. Commissioner 2007 (8) STR236.

The Revenue, which is the appellant in this case, did not dispute that the order in Velgi P. And Sons (Agencies) Pvt. Ltd. vs. Commissioner 2007 (8) STR236 was carried in appeal informing this Court vide order dated 24.03.2008 in CA No. 2429-30/2008 had dismissed the appeal and confirmed the order of the CESTAT. One of the grounds which persuaded the CESTAT to hold what it did was that the period of demand was prior to the amendment to the definition - in this case for the period 2004-2005 to 2006-2007 i.e. much before 01.07.2010.

In view of these and following order made by this Court in CA Nos. 2429-30/2008, the present appeal has to suffer the same fate ; it is accordingly dismissed.

CA Nos. 5928-29-31/2011

The Customs Excise & Service Tax Appellate Tribunal had allowed the assesses appeal in this case on the ground that the definition of taxable services was expanded with effect from 1.7.2010. So the Customs Excise & Service Tax Appellate Tribunal had relied upon its previous ruling in Velgi P. And Sons (Agencies) Pvt. Ltd. vs. Commissioner 2007 (8) STR236.

The Revenue, which is the appellant in this case, did not dispute that the order in Velgi P. And Sons (Agencies) Pvt. Ltd. vs. Commissioner 2007 (8) STR236 was carried in appeal informing this Court vide order dated 24.03.2008 in CA No. 2429-30/2008 had dismissed the appeal and confirmed the order of the CESTAT. One of the grounds which persuaded the CESTAT to hold what it did was that the period of demand was prior to the amendment.

In view of these and following order made by this Court in CA Nos. 2429-30/2008, the present appeal has to suffer the same fate ; it is accordingly dismissed.

CA Nos. 5020-5022/2008

The Customs Excise & Service Tax Appellate Tribunal had allowed the assesses appeal in this case on the ground that the definition of taxable services was expanded with effect from 1.7.2010. So the Customs Excise & Service Tax Appellate Tribunal had relied upon

its previous ruling in Belgian P&Sons Agencies Pvt. Ltd. vs. Commissioner 2007 8STR 236.

The Revenue, which is the appellant in this case, did not dispute that the order in Velgi P. And Sons (Agencies) Pvt. Ltd. vs. Commissioner 2007 (8) STR236 was carried in appeal informing this Court vide order dated 24.03.2008 in CA No. 2429-30/2008 had dismissed the appeal and confirmed the order of the CESTAT. One of the grounds which persuaded the CESTAT to hold what it did was that the period of demand was prior to the amendment to the definition - in this case period was prior to 2010.

In view of these and following order made by this Court in CA Nos. 2429-30/2008, the present appeal has to suffer the same fate ; it is accordingly dismissed.

List SLP (C) No. 12607/2011 and SLP (C) No. 7482/2012 on 12.01.2023.

.....J.
(S. RAVINDRA BHAT)

.....J
(DIPANKAR DATTA)

New Delhi;
January 11th, 2023

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). 1765/2009

COMMISSIONER OF CENTRAL EXCISE, MANGALORE

Appellant(s)

VERSUS

M/S KONKAN MARINE AGENCIES

Respondent(s)

WITH

SLP(C) No. 12607/2011 (III)

C.A. No. 10763/2017 (IV-A)

(only

FOR STAY APPLICATION ON IA 72872/2017

IA No. 72872/2017 - STAY APPLICATION)

SLP(C) No. 3501/2015 (XII-A)

(FOR CONDONATION OF DELAY IN FILING ON IA 1/2014

FOR CONDONATION OF DELAY IN REFILING ON IA 2/2014

IA No. 1/2014 - CONDONATION OF DELAY IN FILING

IA No. 2/2014 - CONDONATION OF DELAY IN REFILING / CURING THE
DEFECTS)

C.A. No. 10787/2016 (XI-A)

C.A. No. 3349/2017 (IV-A)

(FOR

FOR STAY APPLICATION ON IA 2/2017

IA No. 2/2017 - STAY APPLICATION)

C.A. No. 4576/2017 (IV-A)

(ONLY IA NO. 141791 OF 2022 APPLICATION FOR WITHDRAWAL OF PEITION
IN CA NO. 4576 OF 2017 TO BE LISTED BEFORE HON'BLE JUDGE IN
CHAMBER.

IA No. 2/2017 - STAY APPLICATION

IA No. 141791/2022 - WITHDRAWAL OF CASE / APPLICATION)

SLP(C) No. 7482/2012 (IV-A)

C.A. No. 9888/2011 (IV-A)

C.A. No. 5928-5936/2011 (IV-A)

C.A. No. 9887/2011 (IV-A)

C.A. No. 5966/2011 (IV-A)

C.A. No. 5020-5022/2008 (III)

Date : 11-01-2023 This appeal was called on for hearing today.

CORAM :

**HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE DIPANKAR DATTA**

For Appellant(s)

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For Respondent(s)

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Mr. Shubhranshu Padhi, AOR

Mr. Shekhar Vyas, Adv.

Mr. Senthil Jagadeesan, AOR

Mr. Jeevesh Mehta, Adv.

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

**The aforesaid Civil Appeals are dismissed in terms of the
signed order.**

**List SLP (C) No. 12607/2011 and SLP (C) No. 7482/2012 on
12.01.2023.**

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

**(HARSHITA UPPAL)
SENIOR PERSONAL ASSISTANT**

(Signed order is placed on the file)

**(MATHEW ABRAHAM)
COURT MASTER (NSH)**