

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.7700 OF 2009

(Arising out of S.L.P. (C) No.13641 of 2009)

Commissioner of Customs (Port), Kolkata ...Appellant(s)

Versus

Hari Prasad Agarwal ...Respondent(s)

O R D E R

Leave granted.

By consent, matter is taken up for final hearing.

In our view, an important question of law arose before the High Court which has a recurring effect, namely, whether the goods seized were entitled to be sold in the domestic market?; if so, whether, on the facts and circumstances of this case, the goods seized stood sold in breach of the terms and conditions mentioned in DEEC?

We express no opinion on the merits of the case. The High Court has dismissed the Tax Appeal only on the ground of delay without going into the merits of the case, hence, the impugned order is set aside and the matter is remitted to the High Court for *de novo* consideration on merits in accordance with law. We once again reiterate that we express no opinion on the merits of the case.

The civil appeal is, accordingly, allowed.

.....J.
[S.H. KAPADIA]

.....J.
[DR. B.S. CHAUHAN]

New Delhi,
November 20, 2009.

SUPREME COURT OF INDIA



JUDGMENT