

**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**

Petition(s) for Special Leave to Appeal (Civil) No(s).6834/2006

(Arising out of judgment and order dated 7.10.2005 passed in CMWP 1362/2005 and final order dated 16.11.2005 of the Customs, Excise & Service Tax Appellate Tribunal, New Delhi being final order No.946/2005-Cus in Appeal No.C/639/2005)

MUKESH KUMAR GUPTA

Petitioner(s)

VERSUS

COMMISSIONER OF CUSTOMS & C.EXCISE & ANR

Respondent(s)

Date: 10/11/2008 This Petition was called on for hearing today.

CORAM :

**HON'BLE MR. JUSTICE LOKESHWAR SINGH PANTA
HON'BLE MR. JUSTICE AFTAB ALAM**

For Petitioner(s)

Ms. Karuna Nundy, Adv.

Ms. Meenakshi Arora,Adv.

For Respondent(s)

Mr. B. Datta, ASG

Mr. Navin Prakash, Adv.

Mr. B. Krishna Prasad,Adv.

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

Leave granted.

The appeal is disposed of in terms of the signed order.

**(Sukhbir Paul Kaur)
Court Master**

**(Vinod Kulvi)
Court Master**

(Signed Order is placed on the file)s

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO. 6639 OF 2008
(Arising out of S.L.P.(C) No.6834 of 2006)

MUKESH KUMAR GUPTA

Appellant(s)

Versus

COMMISSIONER OF CUSTOMS & C. EXCISE & ANR.

Respondent(s)

O R D E R

We have heard learned counsel for the parties.

Leave granted.

This appeal by special leave is directed against the judgment and order dated 7.10.2005 passed by the High court of Judicature at Allahabad in Civil Misc. Writ Petition No.1362 of 2005 and final judgment and order dated 16.11.2005 passed by the Customs, Excise & Service Tax Appellate Tribunal, New Delhi being final order No.946 of 2005-Cus in appeal No. C/639 of 2005.

In the facts and circumstances of the case, we set aside the Order dated 16th November, 2005 passed by the Appellate Tribunal in Appeal No. 639 of 2005 dismissing the appeal of the appellant for default of the payment of the pre deposit of the penalty amount of Rs.10,00,000/- subject to the condition that the

...2/-

appellant shall deposit a sum of Rs.4,50,000/- (Rupees Four lacs fifty thousand only) in addition to Rs.50,000/- stated to have already been deposited within a period of four months from the date of receipt of the copy of this order as a condition precedent on pre-deposit of the amount. On deposit of the said amount, the appeal shall be restored to its original number and decided on merits by the Tribunal.

The appellant was directed to pay a sum of Rs.10,000/- to the Supreme Court Legal Services Committee as per the direction of this Court dated 25th April, 2008 entitling him to file the Rejoinder Affidavit within two weeks. Since, we are disposing of the appeal in the aforesaid terms, we, in the interest of justice, order that the appellant is not required to deposit the said amount, if already not deposited.

The appeal stands disposed of in the above terms.

.....J.
(LOKESHWAR SINGH PANTA)

.....J.
(AFTAB ALAM)

New Delhi,
November 10, 2008