

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.40 OF 2010

(Arising out of S.L.P. (C) No.29062 of 2009)

Union of India & Anr.

...Appellant(s)

Versus

Nirmala Mitra (Dead) Thr. L.R.

...Respondent(s)

O R D E R

Leave granted.

By consent, the matter is taken up for final hearing.

On going through the impugned order, we find that the High Court had dismissed the Tax Appeal filed by the Department only on the ground of abatement. We are of the view that the High Court ought to have set aside the abatement and decided the appeal on merits. In the circumstances, we set aside the impugned order and allow the application for setting aside the abatement. We request the High Court to dispose of Tax Appeal No.12 of 2002 on merits, preferably within three months, particularly when the cause of action has arisen before 1950.

The civil appeal is, accordingly, allowed.

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

.....J.
[AFTAB ALAM]

New Delhi,
January 06, 2010.