

**THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SMT. JUSTICE ANIS**

WRIT PETITION NO.11040 OF 2003

O R D E R

(Per Hon'ble Sri Justice Sanjay Kumar)

This writ petition was filed seeking a direction to the Commissioner of Central Excise, Commissionerate-I, Hyderabad, to finalise and determine the annual capacity of the hot air stenter of the petitioner under Rule 3 of the Hot Air Stenter Independent Textile Processors Annual Capacity Determination Rules, 1998, and in accordance with the judgment of the Supreme Court in **COMMISSIONER OF CENTRAL EXCISE, JAIPUR-II V/s. S.P.B.L. LTD.¹**. This relief was sought in the context of the order dated 10.09.1999 issued by the Commissioner determining the number of chambers in the hot air stenter to be 8, by treating the additional attachment as a chamber, for the purpose of determining duty liability.

A similarly situated company filed W.P.No.2325 of 2003 before this Court seeking finalization of the determination of the annual capacity under the relevant rules in accordance with the judgment of the Supreme Court referred to *supra*. By order dated 22.04.2003 passed therein, a Division Bench of this Court found merit in the said plea and disposed of the writ petition directing the Commissioner to determine the issue in terms of the judgment of the Supreme Court referred to *supra* within a time frame. The Division Bench observed that once a *ratio* was laid down by the Supreme Court, it would bind everybody including the Commissioner of Central Excise.

¹ (146) ELT (254) SC

For reasons alike as were mentioned in the aforestated order passed in W.P.No.2325 of 2003 and in terms thereof, this writ petition is disposed of directing the Commissioner of Central Excise, Commissionerate-I, Hyderabad, to determine the annual capacity of the hot air stenter of the petitioner in terms of the relevant rules and in accordance with the judgment of the Supreme Court referred to *supra*. This exercise shall be completed expeditiously and in any event, not later than six weeks from today. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

ANIS, J

12th JULY, 2017

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