

THE HON'BLE SRI JUSTICE SANJAY KUMAR

AND

THE HON'BLE SRI JUSTICE GUDI SEVA SHYAM PRASAD

WRIT PETITION No. 556 of 2001

ORDER:

This writ petition was filed seeking a declaration that Section 112 of the Finance Act, 2000, was *ultra vires* the Constitution and beyond the legislative competence of the Parliament. A consequential declaration was sought quashing the orders dated 28.11.1997 and 04.05.1998 passed by the Assistant Commissioner of Customs and Central Excise, Division-III Commissionerate, Hyderabad, confirmed in appeal by the Commissioner of Customs & Central Excise (Appeals), Hyderabad, vide orders dated 15.12.1998 and 01.06.2000.

2. We are now informed that the issue stands settled by the decision of the Supreme Court in *Sangam Spinners Limited v. Union of India and others*¹, wherein a similar challenge was mounted against Section 112 of the Finance Act, 2000. The Supreme Court held that there was no entitlement to MODVAT credit on High-Speed Diesel utilized in generation of electricity and, therefore, once there was no such vested right to claim credit on the duty paid on High-Speed Diesel, the same could not be held to have been taken away by Section 112 of the Finance Act, 2000, retrospectively.

3. The challenge in this writ petition no longer survives for independent consideration on merits in the light of the aforestated binding precedent.

¹ (2011) 11 SCC 408

4. The writ petition is therefore dismissed. Pending miscellaneous petitions shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

GUDI SEVA SHYAM PRASAD, J

08th June, 2017

KSM



THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE GUDI SEVA SHYAM PRASAD



WRIT PETITION No. 556 of 2001

06th June, 2017

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