

Banshidhar Sewbhagovan & Co

v.

Collector Of Central Excise

(Supreme Court Of India)

HON'BLE JUSTICE S. RANGANATHAN HON'BLE JUSTICE M. M.  
PUNCHI

Civil Appeal No. 15 Of 1989 | 27-10-1989

1. Special leave granted.

2. It is submitted on behalf of the respondents that the Civil Appeal is not maintainable from the impugned order passed by the Customs, Excise and Gold Control Appellate Tribunal. It is unnecessary to go into this objection. We direct that the appeal be treated as one made under Article 136 of the Constitution. We grant leave and proceed to dispose of the appeal.

3. The order of the Tribunal in question was one refusing to restore an appeal dismissed in default. It does appear that there was some negligence on behalf of the counsel who appeared before the Tribunal but we do not think that the appellant should be penalised for the default of the counsel. We set aside the order of the Tribunal and restore the appeals before it, being Appeal Nos. E.1282/83-D and 1542/83-D.

4. The appeal is disposed of accordingly. There will be no order as to costs.