

SUPREME COURT OF INDIA

J.M. Baxi and Co., Gujarat

Vs.

Commissioner of Customs, New Kandla

C.A.Nos.5-6 of 2000

(B. N. Kirpal and S. Rajendra Babu, JJ.)

03.01.2000

ORDER

1. Special leave granted.

2. The challenge by the appellant in writ petitions filed before the High Court was to the demand which was raised by the respondents on 1st September, 1998 and 5th February, 1999. The contention of the appellant was that this demand had been raised nearly 16 years after the amount had become due from the importer on whose behalf the appellant had been acting as an agent. He challenged the validity of this demand but the High Court dismissed the writ petitions on the ground that alternative remedy was available to the appellant.

3. Normally, the High Court ought not to interfere in exercise of its jurisdiction under Article 226 when adequate alternative remedy is available, but in the special facts of this case when the demand was raised and the same had been challenged on the ground that it was barred by time and where the demand is nearly of 46 lakhs of rupees which will have to be deposited before any appeal can be filed, we are of the opinion that the High Court ought to have exercised its jurisdiction and

determined the questions which were raised in the writ petition on merits. In dealing with the contentions raised by the appellant, the High Court would necessarily have to consider the contentions of the respondents as well.

4. We, accordingly, allow these appeals, set aside the order dated 19th July, 1999 of the High Court and remit the case in the High Court which should then decide Special Civil Applications Nos. 1746 of 1999 and 1754 of 1999 in accordance with law. The interim order which was passed by this Court will continue till varied and the matter is disposed of by the High Court.

Appeal allowed.