

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL NO.2329 OF 2006

DEPUTY COMMISSIONER OF INCOME TAX & ORS. Appellant (s)

VERSUS

M/S. SIMPLEX CONCRETE PILES (INDIA) LTD. Respondent(s)

With Civil Appeal No. 2331 of 2006
(With office report)

Civil Appeal No.2330 of 2006
(With office report)

SLP(C) NO. 18237 of 2006
(With office report)

Date: 11/09/2012 These Matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE MADAN B. LOKUR

For Appellant(s) Mr. R.P. Bhatt, Sr. Adv.
Mr. Arijit Prasad, Adv.
Mr. Rahul Kaushik, Adv.
Ms. A. Subhashini, Adv.
Ms. Anil Katiyar, Adv.
for Mr. B.V. Balaram Das, Adv.

For Respondent(s) Mr. Vikas Singh, Sr. Adv.
Mr. K.V. Mohan, Adv.
Mr. K.V. Balakrishnan, Adv.

Mr. Satyen Sethi, Adv.
Mr. Arta Trana Panda, Adv.
Ms. Mansi Gautam, Adv.
Ms. Geetanjali Mohanm, Adv.

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Mr. S.D. Singh, Adv.
Mr. Vijay Kumar, Adv.
Ms. Bharti Tyagi, Adv.
Ms. Kamakshi S. Mehlwal, Adv.

UPON hearing counsel the Court made the following
O R D E R

Civil Appeal No.2329 of 2006 and Civil Appeal No.6404 of 2012 @
S.L.P. (C) No.18237 of 2006:

Heard learned counsel on both sides.

Leave granted.

The civil appeals are dismissed.

No order as to costs.

Civil Appeal No.2331 and Civil Appeal No.2330 of 2006:

Since the tax amount is meagre, the civil appeals are dismissed.

No order as to costs.

[Alka Dudeja]
A.R.-cum-P.S.

[Indu Satija]
Court Master

[Signed order is placed on the file.]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.2329 OF 2006

Dy. Commissioner of Income Tax & Ors. ...Appellant(s)

Versus

M/s. Simplex Concrete Piles (India) Limited ...Respondent(s)

With Civil Appeal No.2331 of 2006, Civil Appeal No.2330/06 and Civil Appeal No.6404/2012 @ S.L.P.(C) No.18237/2006:

O R D E R

Civil Appeal No.2329 of 2006 and Civil Appeal No.6404 of 2012 @ S.L.P.

(C) No.18237 of 2006:

Heard learned counsel on both sides.

Leave granted.

We see no error in the observation made by the Division Bench of the High Court in the impugned judgement that once limitation period of four years provided under Section 147/149(1A) of the Income Tax Act, 1961, [for short, 'the Act'] expires then the question of re-opening by the Department does not arise. In any event, at the relevant time, when the assessment order got completed, the law as declared by the jurisdictional High Court, was that the civil construction work carried out by the assessee would be

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entitled to the benefit of Section 80HH of the Act, which view was squarely reversed in the case of Commissioner of Income-Tax vs. N.C. Budharaja and Co. and Another, reported in [1993] 204 ITR 412. The subsequent reversal of the legal position by the judgment of the Supreme Court does not authorise the Department to re-open the assessment, which stood closed on the basis of the law, as it stood at the relevant time.

The civil appeals are, accordingly, dismissed

No order as to costs.

Civil Appeal No.2331 and Civil Appeal No.2330 of 2006:

Since the tax amount is meagre, the civil appeals are dismissed.

No order as to costs.

.....CJI.
[S.H. KAPADIA]

.....J.
[MADAN B. LOKUR]

New Delhi,
September 11, 2012.
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