

(2000) 01 SC CK 0016

In the Supreme Court Of India

Case No : Civil 5 and 6 of 2000 and Special Leave Petition (Civil) 12329 and 12330 of 1999

J.M. Baxi and Co.

APPELLANT

Vs

Commissioner of Customs and Another

RESPONDENT

Date of Decision : 03-01-2000

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 2000 SC 3407 : (2000) AIRSCW 1872 : (2000) 71 ECC 239 : (2000) 120 ELT 29 : (2000) 1 JT 540 : (2001) 9 SCC 275 : (2000) 4 Supreme 445

Hon'ble Judges : S. Rajendra Babu, J;B. N. Kirpal, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

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 to the High court which should then decide Special Civil Application 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.