

DESIGNATED AUTHORITY, MINISTRY OF COMMERCE &
INDUSTRY & ANR.

v.

INDIAN METALS & FERRO ALLOYS LTD.
(Special Leave Petition (c) No. 1795 of 2009)

JANUARY 27, 2009

**[DR. ARIJIT PASAYAT AND ASOK KUMAR
GANGULY, JJ.]**

Reference to larger Bench:

Questions as to whether the interpretation that Anti Dumping Duty is country specific rather than exporter specific is in consonance with the provision of Rules 12, 15, 17(3), 18, 19(3) and Annexure 1 to Custom Tariff (Identification, Assessment and Collection of Anti-Dumping on Dumped Articles and For Determination of Injury) Rules, 1995; and whether the interpretation placed upon Rule 7 of Rules is correct in so far as it diminishes the Rule of confidentiality statutorily provided for under Rule 7 – Referred to larger Bench – Customs Tariff Act, 1975.

CIVIL APPELLATE JURISDICTION : Special Leave Petition (C) No 1795 of 2009.

From the final Judgment and Order dated 1.11.2007 of the High Court of Delhi at New Delhi in Writ Petition (C) No, 16893 of 2006.

Gopal Subramaniam, A.S.G, Brijender Chahar, Rashmi Malhotra, Jyoti Chahar, D.S. Mahra and Anil Katiyar for the Petitioners.

The Judgement of the Court was delivered by

DR. ARIJIT PASAYAT, J.1. Challenge in this petition is to

A the order passed by the Division Bench of the Delhi High Court allowing the writ petition filed by the respondent. The issue before the High Court was with regard to interpretation of Anti Dumping provisions of the Customs Tariff Act, 1975 (in short the 'Act') and the Custom Tariff (Identification, Assessment and
B Collection of Anti-Dumping Duty on Dumped Articles and For Determination of Injury) Rules, 1995 (hereinafter referred to as the 'Rules').

2. The writ petition was allowed primarily relying on
C *Reliance Industries Ltd. v. Designated Authority and Ors.* (2006 (10) SCC 368) and the interpretation placed on Section 9A(5) of the Act in the matter and scope of Section 9A(5) of the Act as considered by this Court in *Rishirop Polymers (P) Ltd. v. Designated Authority and Ors.* (2006 (4) SCC 303).

D 3. It is submitted by learned counsel for the appellant that the issues are of complex nature and will have wide ramifications on domestic and international business and commerce.

E 4. We are of the view that the view expressed in *Reliance Industries* case (supra) needs a fresh look and following questions need to be dealt with by a Larger Bench:

(1) Whether the interpretation that Anti Dumping Duty is country specific rather than exporter specific in
F consonance with the provision of Rules 12, 15, 17(3), 18, 19(3) and Annexure 1 to the Rules.

(2) Whether the interpretation placed upon Rule 7 of the Rules is correct in so far as it diminishes the Rule of confidentiality statutorily provided for under Rule
G 7.

5. The records be placed before the Hon'ble the Chief Justice of India for necessary orders.