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2008 (227) E.L.T. A29 (S.C.) [10-03-2008]

(1) DEPB purchased from open Market — Bona fide belief (2) Demand — Limitation — Extended period

The Supreme Court Bench comprising Hon'ble Mr. Justice S.B. Sinha and Hon'ble Mr. Justice V.S. Sirpurkar on 10-3-2008 **dismissed** the Petition for Special Leave to Appeal (Civil) No. CC 3493 of 2008 filed by Commissioner of Customs, Jalandhar against the Judgment and Order dated 15-3-2007 of the High Court of Punjab & Haryana at Chandigarh in CUSAP No. 15 of 2006 as reported in **2007 (218) E.L.T. 349 (P & H)** (*Commissioner of Customs v. Leader Valves Ltd.*) While dismissing the SLP, the Supreme Court passed the following order :

"The Special leave petition is dismissed both on the ground of delay as also on merit".

The High Court vide impugned order had held that assessee not a party to the fraud as had purchased DEPB Scrip from open market in *bona fide* belief of its being genuine, on payment of full price and availed benefit thereunder. Merely because at a later stage, the DEPB has been found to be obtained fraudulently by forging Bank Certificate of Export Realisation, the assessee could not be deprived of the benefits legitimately available to them.

The High Court further held that, Revenue cannot avail the extended period of limitation to issue SCN because assessee could not be accused of mis-representation, collusion or suppression of facts under Section 28 of Customs Act, 1962.

[*Commissioner v. Leader Valves Ltd. - 2008 (227) E.L.T. A29 (S.C.)*]