

The Supreme Court Bench comprising Hon'ble Mrs. Justice B.V. Nagarathna and Hon'ble Mr. Justice Nongmeikapam Kotiswar Singh on 1-10-2024 **admitted** Civil Appeal No. 754 of 2020 filed by *GMR Power and Urban Infra Ltd.* against the CESTAT Final Order No. A/86983/2019-WZB, dated 1-11-2019 as reported in **2019 (370) E.L.T. 1758 (Tri. - Mumbai)** (*GMR Infrastructure Ltd. v. Commissioner*).

The Appellate Tribunal in its impugned order, after following the decision of the Supreme Court in *Gammon India Ltd.* [2011 (269) E.L.T. 289 (S.C.)], had held that the road construction machinery viz. 'Electronic Sensor Paver for laying bituminous pavement upto 9 meter' imported by sub-contractor was not eligible to exemption in terms of Sl. No. 230 of Notification No. 21/2002-Cus., dated 1-3-2002 as amended.

[GMR Power and Urban Infra Ltd. v. Commissioner - 2025 (391) E.L.T. A44 (S.C.)]

(1) Car — Whether engine assembly, transmission sub-assembly/gearbox consisting of crankshaft, cylinder heads, crank cases, cylinder head covers, fly wheels, pistons, exhaust and inlet valves, etc., not mounted on chassis or a body assembly and imported in CKD form having Unique Identification Number engraved on it were to be considered in pre-assembled form and eligible to lowest rate of 10% BCD during period 1-3-2011 to 11-4-2013? (2) Car — Whether Engine assembly, transmission sub-assembly/gearbox consisting of crankshaft, cylinder heads, crank cases, cylinder head covers, flywheels, pistons, exhaust and inlet valves, etc. imported in CKD and mated to each other or mounted on chassis/body assembly were eligible to lowest rate of 10% BCD? (3) Sample testing of imported goods — Whether physical examination of imported goods at importer's factory or at port at time of import would be relevant for purpose of valuation and eligibility to benefit of exemption? (4) Interpretation of exemption Notification — Whether any ambiguity existing therein is to be interpreted in favour of Revenue or in favour of assessee? (5) Interpretation of Notification No. 12/2012-Cus. — Whether word 'and' appearing between words 'gearbox' and 'transmission' in Serial No. 437(1)(a) is to be read as 'or' in disjunctive sense?