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C.A.No. 2355 OF 2000  
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ITEM NO. 104 COURT NO. 4 SECTION III

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s) 2355/2000

COMMISSIONER OF CENTRAL EXCISE, HYDERABAD Appellant (s)

Versus

ASSOCIATED CEMENT COMPANIES LTD.  
MANCHERIAL, ADDILABAD (A.P.) Respondent(s)

(with appln. for stay and with office report)

Date: 28.11.2002 This/These Appeal(s) was/were called  
on for hearing today.

CORAM:

HON'BLE MR. JUSTICE M.B. SHAH  
HON'BLE MR. JUSTICE D.M. DHARMADHIKARI

For the Appellant (s)

Mr. Ranjit Kumar, Sr. Adv.,  
Mr. Ashok K. Srivastava, Adv.,  
Mr. B.K. Prasad, Adv.

For the Respondent (s)

Mr. A.N. Haksar, Sr. Adv.,  
Mr. Rajeev Shakdhar, Adv.,  
Mr. U.A. Rana, Adv.,  
Mr. Arvind Kumar, Adv.,  
Ms. Gunjan Kayastha, Adv. for  
M/s. Gagrat & Co.

Upon hearing counsel the Court made the following

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.SP2

The appeal is dismissed. There shall be no order as  
to costs.

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(Vijay Kumar Sharma)  
Court Master

(Janki Bhatia)  
Court Master

Signed order is placed on the file.

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.PL54

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2355/2000@@  
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Versus

ASSOCIATED CEMENT COMPANIES LTD.  
MANCHERIAL, ADILABAD (A.P.)

Respondent

O R D E R@@  
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Heard the learned counsel for the parties.

This appeal is filed against the judgment and order dated 8.9.1999 passed by the Customs,Excise and Gold (Control) Appellate Tribunal, South Zone, Madras (for short 'the Tribunal') in Appeal No.E/Stay/94/99 & E/1073/99 whereby the Tribunal allowed the appeal of the assessee by holding that in previous decisions rendered by the Tribunal, it was decided that modvat credit is available for high speed diesel oil used as fuel for generation of electricity which in turn is used for running the cement plant for the period prior to 1.3.1997 as well as subsequent thereto up to 1.3.1998. It is also pointed out that Tribunal has all throughout taken a consistent view that modvat credit is required to be extended to HSD oil used as fuel for generation of

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electricity which in turn is used for running of machine for manufacture of final product.

Mr.Ranjit Kumar, learned senior counsel appearing for the Department, referred to all relevant Rules, Trade Notice issued under Section 57-A as well as Notifications on the subject and has also succinctly pointed out the contentions which are sought to be raised by the Department.

In our view, unamended Rule 57-B leaves no doubt on the issue in question. It provides that notwithstanding anything contained in Rule 57-A, the manufacturer of final product shall be allowed to take credit of the specified duty paid on the goods used for generation of electricity or steam used for manufacture of final product or for any other purpose within the factory of production. This rule was amended only on 2.3.1998 by adding following explanation:-

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"Explanation.-- For the purposes of this sub-rule, it is hereby clarified that the term 'inputs' refers only to such inputs as may be specified in a notification issued under rule 57 A."

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In this view of the matter, in our view, the tribunal was fully justified in arriving at the conclusion

that the assessee was entitled to get the benefit of the notification till rule 57B was amended. In the result, this appeal fails and is dismissed. There shall be no order as to costs.

.SP1

.....J.  
( M.B. Shah)

.....J.  
( D.M. Dharmadhikari)

New Delhi,  
November 28, 2002