

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CIVIL APPEAL NO.4776 OF 2001

COMMNR. OF CENTRAL EXCISE, VADODARA

Appellant(s)

VERSUS

M/S STEELCO GUJARAT LTD.
)

Respondent(s)

(WITH OFFICE REPORT)

Date: 19/07/2006 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHAN

HON'BLE MR. JUSTICE MARKANDEY KATJU

For Appellant(s)

Mr. A.Subba Rao, Adv.

Ms. Binu Tamta, Adv. for

Mr. B.K. Prasad, Adv.

For Respondent(s)

Mr. V.Lakshmikumaran, Adv.

Mr. Alok Yadav, Adv. for

Mr. M.P. Devanath, Adv.

UPON hearing counsel the Court made the following

O R D E R

The Appeal is allowed. No costs.

(Parveen Kr. Chawla)

(Kanwal Singh)

Court Master

Court Master

[Signed Order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4776 OF 2001

Commissioner of Central Excise, Vadodara

Appellant(s)

Versus

M/s. Steelco Gujarat Ltd.

Respondent(s)

O R D E R

Customs, Excise and Gold (Control) Appellate Tribunal, West

Regional Bench at Mumbai (for short 'the Tribunal') decided two

questions of law (i) relating to the demand raised by the revenue
e for

Rs.1,19,51,387/- made by notice dated 19.4.1996 and (ii) regarding the

entitlement of the assessee to take modvat credit of the duty on

consignments of hot rolled steel coils which were paid by other

manufacturers after they were cleared.

This Court granted leave restricted to the demand for

Rs.1,19,51,387/- made by notice dated 19.4.1996.

Without setting aside any of the findings recorded by the Commissioner(Appeals) or the original authority which framed the assessment, Tribunal taking altogether a new point which had not been taken by the assessee earlier, allowed the appeal on question No.1. We are not satisfied with the manner in which the Tribunal has dealt with the matter. In our view, a deeper consideration is required. Accordingly, we set aside the order of the Tribunal in so far as question No.1 regarding demand of Rs.1,19,51,387/- made by notice dated 19.4.1996 is concerned and remit the case back to the Tribunal for a fresh consideration in accordance with law. Counsel for the department has rightly not challenged the question No.2 since the leave was restricted to question No.1 only. The findings recorded by the Tribunal on question No.2 has attained finality.

The Appeal is allowed in the above terms. No costs.

.....J.

.....
(ASHOK BHAN)

New Delhi;
.....J.
July 19, 2006.

.....
(MARKANDEY KATJU)