

O R D E R

With consent of parties, civil appeal is taken on Board and disposed of in following terms:

The issue involved in this appeal is whether HSD (Furnace Oil) which is procured duty free by the assessee (100% EOU) by availing benefit of Notification No.1/95-CE dated 4.1.1995, as amended by Notification No.31/98-CE dated 15.9.1998, and used in the boilers is a 'consumable' within the meaning of Entry No.7 of Annexure-I to the above Notification?

This issue has been answered in favour of the assessee by the Tribunal in the case of Tata Tea Limited vs. Commissioner of Central Excise reported in (2004) 164 E.L.T. 315. Aggrieved by the said decision of the Tribunal, the Department filed S.L.P. (C) No.....CC No.5905 of 2007 which stood dismissed on 18th July, 2007.

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Civil Appeal is dismissed with no order as to costs.

For above reasons, interlocutory application does not survive.

.....J.
[S.H. KAPADIA]

.....J.
[AFTAB ALAM]

New Delhi,
October 19, 2009.