

4ITEM NO. 45

COURT NO.3 SECTION III
S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).13203/2012
(From the judgement and order dated 08/09/2011 in CEA No.92/2007
of The HIGH COURT OF KARNATAKA CIRCUIT BENCH AT DHARWAD)

JINDAL PRAXAIR OXYGEN CO.LTD. Petitioner(s)
VERSUS

UNION OF INDIA Respondent(s)
(With prayer for interim relief)

Date: 08/05/2012 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE D.K. JAIN
HON'BLE MR. JUSTICE ANIL R. DAVE

For Petitioner(s) Mr. Harish N Salve, Sr. Adv.
Mr. Shyam Divan, Sr. Adv.
Mr. L.P. Asthana, Adv.
Ms. Praveena Gautam, Adv.-on-Record

For Respondent(s)

UPON hearing counsel the Court made the following
O R D E R

One of the contentions urged by Mr. Harish N. Salve, learned senior Counsel appearing on behalf of the petitioner is that Circular No. F.No. B-4/7/2000-TRU dated 3rd April, 2000 issued by the Central Board of Excise and Customs was not brought to the notice of this Court in the case of Commissioner of Central Excise, Bhavnagar vs. Saurashtra Chemicals Ltd., (2007) 10 SCC 352. In the said decision, it has been held that CENVAT credit on capital goods in terms of Rule 57-AC(2)(c) of Central Excise Rules, 1944, limited to a maximum of 50% and that too in the relevant year only. According to the learned counsel, in the light of the said circular, the above-said decision needs reconsideration by this Court. In view of the submission, let notice issue.

In the meantime, the respondent is restrained from taking any coercive steps for the recovery of element of interest and penalty in the additional demand in question.

[Charanjeet Kaur]
Court Master

[Kusum Gulati]
Court Master