

f

ITEM NO.52

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).31972-31973/2012

(From the judgement and order dated 26/08/2011 in GCR No.2/2003 and dated 23/01/2012 in CM No.559/2012 in GCR No.2/2003 of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

DEVTA STEEL ROLLING MILLS

Petitioner(s)

VERSUS

COM. OF CENTRAL EXCISE, CHANDIGARH

Respondent(s)

(With appln(s) for c/delay in filing SLP, exemption from filing c/c of the impugned Judgment and prayer for interim relief and office report)

Date: 08/08/2013 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.M. LODHA

HON'BLE MR. JUSTICE MADAN B. LOKUR

For Petitioner(s)

Mr. Ish Puneet Singh, Adv.

Mr. Dinesh Verma, Adv.

Mr. Subhasish Bhowmick, Adv.

For Respondent(s)

Mr. R.P. Bhatt, Sr. Adv.

Mr. K. Swami, Adv.

Mr. Aljo K. Joseph, Adv.

Mr. B. Krishna Prasad, Adv.

UPON hearing counsel the Court made the following

O R D E R

Delay condoned.

The impugned order dated August 26, 2011 records that the following question was referred for the High Court's consideration :-

"Whether Rule 5 of the Hot-Rolling Steel Mills Annual Capacity Determination Rules, 1997 would apply to a case where annual capacity of production has been redetermined in terms of Rule 4(2) on account of change in parameters even though re-determined annual capacity is less than the annual production for the financial year 1996-97."

The above question stands answered by this Court in Commissioner of Central Excise, Chandigarh Vs. Doaba Steel Rolling Mills, (2010) 14 SCC 751.

This position is not disputed by the learned counsel for the petitioner.

However, it appears that in light of the liberty granted by the High Court in its order dated August 26, 2011, the petitioner made an application under Section 151 of the Code of Civil Procedure, 1908 for recalling that order.

By its order dated January 23, 2012, the High Court dismissed the application for recalling the order dated August 26, 2011. This order is also impugned.

We find no justification to interfere with the impugned

orders in exercise of our jurisdiction under Article 136 of the Constitution of India.

We are informed that a Writ Petition has been filed by the petitioner in the High Court challenging the constitutional validity of Rule 5 of the Hot-Rolling Steel Mills Annual Capacity Determination Rules, 1997. It is obvious that High Court shall consider that Writ Petition appropriately in accordance with law. If the petitioner is aggrieved by the order that may be passed by the High Court in that Writ petition, it may pursue appropriate remedy in challenging that order.

Special leave petitions are dismissed.

|(Rajesh Dham)
|Court Master

|(Renu Diwan)
|Court Master

|