

ITEM NO. 102 COURT NO.5 SECTION III

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. 2793 OF 2006

AMBUJA CEMENT LTD.

Appellant (s)

VERSUS

COMMR. OF CENTRAL EXCISE, CHANDIGARH Respondent(s)
(With appln(s) for ex-Parte stay and office report)

WITH

Civil Appeal NO. 2912 of 2006
(With appln. for stay and with office report)

Date: 19/01/2011 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE D.K. JAIN
HON'BLE MR. JUSTICE H.L. DATTU

For Appellant(s) Mr. Harish N. Salve, Sr. Adv.
In CA 2793/2006 Mr. Ravinder Narain, Adv.
Ms. Sonu Bhatnagar, Adv.
Mr. Ajay Aggarwal, Adv.
Ms. Mallika Joshi, Adv.
Mr. Rajan Narain, Adv.

For Appellant(s) Mr. Harish N Salve, Sr. Adv.
In CA 2912/2006 Mr. U.A. Rana, Adv.
Mrs. Mrinal Majumdar, Adv.
for M/s. Gagrat & Co., Advs.

For Respondent(s) Mr. V Shekhar, Sr. Adv.
Ms. Shalini Kumar, Adv.
Mr. Ashok K Srivastav, Adv.
Mr. B. Krishna Prasad, Adv.

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

The matters are remitted back to the Tribunal for a limited purpose of adjudication by the Tribunal on the question of law mentioned in the signed order. Parties are agreed that the facts on record would be sufficient for determination of the afore-mentioned question of law.

..2/-

: 2 :

The Tribunal is requested to render a decision on the said question, as expeditiously as practicable, preferably within six months.

List the cases for directions immediately thereafter.

[Charanjeet Kaur]
Court Master

[Kusum Gulati]
Court Master

[Signed order is placed on the file]
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2793 OF 2006

M/s. Ambuja Cement Ltd. .. Appellant(s)

Versus

Commissioner of Central Excise, .. Respondent(s)
Chandigarh

CIVIL APPEAL NO. 2912 OF 2006

M/s. A.C.C. Ltd. .. Appellant (s)

Versus

Commissioner of Central Excise, .. Respondent(s)
Chandigarh

O R D E R

After the admission of these appeals, I.A. No. 2 of 2006 in C.A. No. 2793 of 2006 (arising out of Final Order No. 361/06-Ex. in Excise Appeal No. 3457/2005) and I.A. No. 3 of 2007 in C.A. No. 2912 of 2006 (arising out of Final Order No. 360/06-Ex. in Appeal No. E-3312 of 2005) were filed by the appellants, seeking leave to urge additional grounds. The additional ground sought to be urged was as follows :

"Whether after the amendment of the Central Excise Rules, 2002, w.e.f. 25th March, 2003, the goods manufactured in a factory and captively consumed in that factory without being removed from the factory, are liable to payment of excise duty?"

..2/-

: 2 :

The said applications were allowed vide order dated 5th April, 2007.

Since it is an admitted position that the Customs, Excise and Service Tax Appellate Tribunal, while dealing with the appeals before it did not go into the merits of the afore-mentioned ground, as it was not urged before it, we feel that it will be proper and expedient to remit the matters back to the Tribunal for a limited purpose of adjudication on the afore-mentioned question as learned

counsel for the parties are agreed that facts on record
would be sufficient for determination of the said question.

We order accordingly and request the Tribunal to
render a decision on the said question, as expeditiously as
practicable, preferably within six months.

List the cases for directions immediately
thereafter.

.....J.
[D.K. JAIN]

.....J.
[H.L. DATTU]

NEW DELHI,
JANUARY 19, 2011