

IN THE SUPREME COURT OF INDIA
 CIVIL APPELLATE JURISDICTION
 CIVIL APPEAL NO. 5807 OF 2008

COMMISSIONER OF CENTRAL EXCISE, SURAT Appellant (s)

VERSUS

M/S.ESSAR STEEL INDIA LIMITED Respondent(s)

O R D E R

We have heard Mr. K. Radhakrishnan, learned senior counsel for the appellant, and Mr. D.B. Shroff, learned senior counsel for the assessee-respondent.

2. End User Certificate dated 07th August, 2007 issued by the Lieutenant Commander, Dy. Controller of Procurement for Material Superintendent reads as under :

"END USER CERTIFICATE

1. It is certified that the goods purchased by Material Organisation, Controllerate of Procurement, Naval Base, Kochi-682 004 from M/s ESSAR Steel Ltd., Chennai against Purchase Order No. MOK/CPRO/NS.06K95C001 dated 25 Aug. 06, are exclusively for consumption on board warships of the Indian Navy.

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2. The excise duty exemption certificate No. MOK/CPRO/NS.06K95C001 dated 16 Sep 06 was issued in accordance with Sl. 03 of Central Excise Notification No. 64/95-CE dated 16 Mar 95.

3. In this connection user certificate issued on 17 Jul 07 be treated as cancelled."

3. Having regard to the above Certificate, the view taken by the Customs, Excise and Service Tax Appellate Tribunal that the subject goods were supplied by the respondent as stores for consumption on board vessel of the India Navy cannot be said to be legally

flawed.

4. Mr. K. Radhakrishnan, learned senior counsel for the appellant, submits that the above Certificate is applicable only for the purpose of Clause 21 of Exemption Notification 64/95 Central Excise and not in respect of Clause 3. We do not agree with the submission of learned senior counsel for the appellant. The End User Certificate leaves no manner of doubt that the subject goods were purchased by Material Organisation exclusively for the consumption on board warships of the Indian Navy. This satisfies the twin requirement of Clause 3.

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5. Civil Appeal has no merit and it is dismissed accordingly with no order as to costs.

.....J.
(R.M. LODHA)

NEW DELHI;J.
APRIL 16, 2014 (SHIVA KIRTI SINGH)

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ITEM NO.109 COURT NO.2 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(s). 5807 OF 2008

COMMISSIONER OF CENTRAL EXCISE, SURAT Appellant (s)

VERSUS

M/S.ESSAR STEEL INDIA LIMITED Respondent(s)

WITH

Civil Appeal NOS. 2764-2765 of 2014
(with appln. for ex-parte stay)

Date: 16/04/2014 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.M. LODHA
HON'BLE MR. JUSTICE SHIVA KIRTI SINGH

For Appellant(s)
CA 5807/2008 Mr. K. Radhakrishnan, Sr. Adv.

Mr. K. Swami, Adv.
Ms. Benu Tamta, Adv.
Mr. B. Krishna Prasad, Adv.

CA 2764-2765/2014

Mr. Sandeep Narain, Adv. for
M/S. S. Narain & Co.

For Respondent(s)

Mr. D.B. Shroff, Sr. Adv
Mr. Mahesh Agarwal, Adv.
Ms. Manasi Kumar, Adv.
Ms. Tuhina Srivastava, Adv.
Ms. Neeha Nagpal, Adv.
Mr. Shashank Manish, Adv. for
Mr. E.C. Agrawala, Adv.

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

Civil Appeal No. 5807 of 2008

Civil Appeal is dismissed in terms of the
signed order.

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Civil Appeal Nos. 2764-2765 of 2014

These Appeals are de-tagged from Civil Appeal
No. 5807 OF 2008.

List these Appeals for admission after three
weeks.

(Rajesh Dham)
Court Master

(Renu Diwan)
Court Master

(signed order in Civil Appeal No.
5807 of 2008 is placed on the file)