THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

AND

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

<u>C.E.R.C.No.30 of 2003</u>

<u>ORDER:</u> (Per the Hon'ble Sri Justice L.Narasimha Reddy)

The only question that is raised in this CERC, filed under Section 35H(1) of the Central Excise Act, is as to whether the respondent is entitled to claim MODVAT Credit for the products manufactured by it, beyond six months from the date of manufacture.

Heard Sri V.Gopala Krishna Gokhaley, learned counsel for the appellant.

Rule 57H of the Central Excise Rules is the relevant provision. The Rule does not by itself stipulate any specific period, much less six months for claiming the MODVAT credit, by a manufacturer, in the context of payment of excise duty. It is in the interpretation of the provision, that the department wanted to restrict the MODVAT to six months from the date of manufacture of the goods. The respondent pleaded that though the goods were manufactured, more than six months, preceding the date of claim of MODVAT Credit, the transaction in relation thereto took place within that period. The original authority restricted the MODVAT facility up to the period of six months, preceding the date of filing the declaration. In the appeal, the Commissioner held that the view taken by the original authority is not correct. The order passed by the Commissioner was upheld by the Customs, Excise and Gold (Control) Appellate Tribunal, Chennai (CEGAT). Several precedents were taken note of.

Whatever may be the uncertainty on the subject when the matter was dealt with at various stages, now it emerges that in **Commissioner of Central Excise, Bhopal v. Raymonds Limited**[1], the Madhya Pradesh High Court virtually affirmed the view taken by the Tribunal. We, therefore, do not find any basis to accede to the request of the Department to call for reference.

Therefore, the CERC is rejected.

L.NARASIMHA REDDY, J.

CHALLA KODANDA RAM, J.

Date:08.10.2014

GJ

[1] 2013 (297) ELT 35 (MP)