

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR

CENTRAL EXCISE APPEAL NO.14 OF 2015

The Commissioner Central Excise, Central Excise Building, Nagpur

..vs..

M/s. Ballarsha Plywood Chanda Balarshah Road, District Chandrapur

.....
Office Notes, Office Memoranda of Coram,
appearances, Court orders or directions
and Registrar's orders
.....

Court's or Judge's Order

Shri Firdos Mirza, counsel for the Appellant.

**CORAM : B.P. DHARMADHIKARI &
V.M. DESHPANDE, JJ.**

DATED : NOVEMBER 20, 2015.

Heard.

Shri Firdos Mirza, learned counsel appearing for the department, submits that the view taken by the CESTAT is after following the Larger Bench judgment delivered by the Bombay High Court in the case of **Rallis India Limited ..vs.. Union of India**, reported at **2009 (233) ELT 301**. He seeks to distinguish the said judgment by urging that the findings therein that no duty is payable on bye-products, waste or scrap, must be restricted to the facts of that matter.

The learned counsel has attempted to raise before us the following as substantial questions of law:

1. Whether the provisions of Rule 6(3)(b) of Cenvat Credit Rules, 2004 will not be

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applicable if Sawdust is treated as waste, despite being 'exempted goods'.

2) Whether 'Waste' should not be treated as 'exempted goods' as defined under Rule 2(d) of Cenvat Credit Rules, 2004.

3) Whether the provisions of Rule 6(3)(b) require that the 'exempted goods' should also be in the nature of 'exempted final products'.

It is seen that the findings of fact recorded by CESTAT are not urged to be perverse. Not only this, learned counsel also does not dispute that the Honourable Apex Court has laid down same law in its judgment in the case of **Union of India and Ors. ..vs.. M/s. Hindustan Zinc Ltd.** reported at **2014 AIR SCW 2680**. In view of the judgment of the Honourable Apex Court, we find that the questions noted *supra* do not fall for consideration as substantial questions of law. The appeal is dismissed.

JUDGE

JUDGE

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