

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Tax Case No. 12 of 2014**

Commissioner, Central Excise and Customs, Dhamtari Road, Tikrapara, Raipur (CG)
Through Dy. Commissioner (Legal) Central Excise and Customs, Raipur

---- Appellant**Versus**

M/s Jindal Steel and Power Ltd. P.B. 16, Kharsia Road, Raigarh (Chhattisgarh)

---- Respondent

For Appellant	:	Shri Maneesh Sharma, Advocate.
For Respondent	:	Shri Vikram Dixit, Advocate on behalf of Shri Neelabh Dubey, Advocate.

Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri P. Sam Koshy, J.

Judgment on Board**Per Navin Sinha, Chief Justice****21/01/2016**

1. Heard Learned Counsel for the Appellant and the Respondent.
2. Learned Counsel for the Appellant submits that the order of the Customs, Excise and Service Tax Appellate Tribunal, New Delhi dated 9.10.2013 in Excise Appeal No.3913 of 2005 is assailed only to the extent that it disallows the claim of the Appellant with regard to unjust enrichment relying upon a decision of the Tribunal in Grasim Industries Vs. CCE [2003(157) ELT 123 (Tri-Chennai)]. Learned Counsel submits that the judgment in Grasim Industries (supra) stood overruled by SRF Ltd. Vs. Commissioner of Customs, Chennai [2006(193) ELT 186] by Larger Bench of the Tribunal.
3. If the Appellant was duly represented before the Tribunal and no explanation has been furnished why the judgment in SRF Ltd. (supra) was not cited before the Tribunal, we are not persuaded to interfere at this stage and grant liberty to the Appellant as prayed to file a review application before the Tribunal because if the Appellant be correct, no person can be prejudiced by an act of the Court. If a

review application is filed, we expect the Tribunal to consider it in accordance with law so that the correct law is laid down.

4. The appeal is dismissed as withdrawn with the liberty as aforesaid.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE