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HIGH COURT OF CHHATTISGARH, BILASPUR

Tax Case No. 140 of 2016

M/s Steel Authority of India, Bhilai Steel Plant, Bhilai, Represented through Sr. Manager (Finance-Excise)

---- Appellant

versus

Commissioner of Central Excise & Service Tax Raipur, Excise-Bhawan, Dhamtari – Road, Tikirapara, Raipur- 492001 (Chhattisgarh)

---- Respondent

For Appellant	:	Shri Sandeep Dubey, Advocate
For Respondent	:	Shri Vinay Pandey, Advocate

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice
Hon'ble Shri P. Sam Koshy, Judge

Order on Board

27/03/2017

1. We have heard the learned counsel for the Appellant/Assessee and the learned counsel for the Respondent/Revenue.
2. The short issue for decision in this tax case is as to whether we need to interfere the last part of the decision of the Tribunal whereby the Appellant was refused an adjudication on the issue of denial of credit on the premise that they have not been granted permission to pursue the appeal by the Committee on Disputes (for short 'COD').
3. Hearing learned counsel for the Appellant and learned counsel for the Revenue, we see that the Hon'ble Supreme Court of India has done away with the concept of COD with effect from 17.2.2011 as per the judgment of

the Supreme Court in *Electronics Corporation of India Ltd. vs. Union of India 2011 (265) ELT 11 (SC).* That being so, we cannot but vacate the last portion of the order of the Tribunal and remit the matter for reconsideration of the issues as to whether the Appellant had established that they have been wrongfully denied the credit.

4. For the aforesaid reasons, this appeal is allowed and the impugned (Annexure-A/1) final order of CESTAT rendered on 6.6.2016 is vacated to the limited extent of it amounting to refusal to consider the appeal in respect of denial of credit. The parties would be entitled to reagitate that issue before the Tribunal by placing all requisite materials, as may be relevant for such adjudication. The parties are directed to mark appearance before the CESTAT, Principal Bench by 12.00 noon on 17.4.2017 so that the Tribunal can fix appropriate date for hearing and proceeding accordingly.

5. The tax case is ordered accordingly.

Sd/-	**Sd/-**
(Thottathil B. Radhakrishnan)	(P. Sam Koshy)
Chief Justice	**Judge**

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