

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

FIRST APPEAL NO. 647 OF 2006

Commissioner of Central Excise & Customs
Town Centre, N-5, CIDCO, Aurangabad ... **Appellant.**

Versus

M/s Hindusthan Petroleum Corporation Ltd.
Bulk Petroleum Sales Depot, Near Railway
Station, Aurangabad. ... **Respondent.**

Mr. D.S. Ladda, Advocate for the appellant.

**CORAM : R.D. DHANUKA &
SUNIL K. KOTWAL, JJ.**

Dated : 24.08.2017.

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ORAL ORDER :-

1. Mr. D.S. Ladda, learned Counsel for the appellant invited our attention to the judgments of Supreme Court in the cases of Commissioner of Central Excise, **Meerut Versus Bharat Petroleum Corporation Ltd., [2011 (09) LCX 0023** and **Commissioner of Customs and Central Excise Bhopal Versus Indian Oil Corporation Ltd. [(2014) 302 ELT**

234] and would submit that in view of the aforesaid two judgments, the substantial questions of law formulated by this Court by order dated 8th September, 2006 can be answered in negative and in favour of the Assessee. His statement is accepted.

2. This Court had formulated following substantial questions of law.

1. Whether the assessee has contravened the provisions of Section 11-D of the Central Excise Act?

2. Whether the assessee is liable to pay the excess to the extent of Rs. 21,72,017/- collected but not deposited and thus having contravened the provisions of Section 11-D of the Central Excise Act?

3. The substantial questions of law framed by this Court on 8th September, 2006 are accordingly answered in negative, in favour of Assessee and against Revenue.

4. First Appeal No. 647 of 2006 is disposed of in the aforesaid terms. No order as to costs.

5. In view of disposal of First Appeal, the pending Civil Application, if any, stands disposed of.

(SUNIL K. KOTWAL)
JUDGE

(R.D. DHANUKA)
JUDGE

vdd/-