NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Central Excise Reference No. 2 of 2002

- M/s Beekay Engineering Corporation, 45/47, Industrial Estate, Bhilai, Chhattisgarh State, PIN: 490026.

---- Applicant

Versus

- The Commissioner, Central Excise, Raipur.

---- Respondent

For Applicant	:	Shri B.D. Guru, Advocate.
For Respondent	:	None.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice
Hon'ble Shri Justice Parth Prateem Sahu

Order on Board

Per Ajay Kumar Tripathi, Chief Justice

13.12.2018

1. The appeal has been preferred against the order dated 03.04.2002 passed by the Customs, Excise and Gold (Control) Appellate Tribunal, Northern Bench (SM), New Delhi (hereinafter referred to as the "Appellate Tribunal").

2. The issue before the Appellate Tribunal was whether the material gate passes issued by M/s Bhilai Steel Plant can be considered as valid duty paying documents for the purposes of availment of MODVAT credit under Rule 57-A of the Central Excise Rules, 1994.

3. The Appellant had filed material gate passes as proof thereof.

4. The learned Member examined the matter and held that the material gate pass is only a gate pass to facilitate exist of the goods and the same did not indicate anything whatsoever as to the value of goods, the duty so paid etc etc,

therefore, the same could not be considered for the purposes of benefit of MODVAT.

5. In the appeal the question of law raised is whether the Tribunal was correct in taking a view in not treating the gate pass to be a valid document.

6. We have gone through the notification dated 30.03.1994. The said notification clearly indicates as to what is required to be reflected in the gate pass before it can be considered to be a legal document in terms of the said notification for the benefit of grant of MODVAT.

7. We are satisfied that there is no infirmity in the order of the Tribunal besides the question so raised is also a question of fact and not of law because the actual content and the descriptions of the gate pass indicate that it is more of permission granted by the M/s Bhilai Steel Plant to allow the goods to pass through the security check rather than a certification for payment of Excise Duty.

8. Appeal is dismissed.

Sd/-

(Ajay Kumar Tripathi)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge

Brijmohan