204 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2024:PHHC:133433-DB

CCES-18-2001 (O&M)
Date of Decision: 14.10.2024

M/s Gujarat Ambuja Cement Ltd. …Appellant

Vs.

Commissioner of Central Excise, Chandigarh …Respondent

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Amrinder Singh, Advocate for the appellant.

Mr. Saurabh Goel, Sr. Standing Counsel for the revenue.

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SANJEEV PRAKASH SHARMA, J.(Oral)

1. The issue raised in the instant case is no more *res-integra* in view of judgment passed by the Hon'ble Supreme Court in CCE vs. Jawahar Mills Ltd. 2001 (6) SCC 274 and followed in 2010 (255) E.L.T. 481 (SC), titled as Commissioner of Central Excise, Jaipur vs. Rajasthan Spinning and Weaving Mills Ltd.

2. This Court has followed the aforesaid judgments in CCES No.11, 14, 27, 30 and 31 of 2000, decided on 08.05.2020 and held as under:-

> *"These five petitions have been filed by the Commission of Central Excise under Section 35H(1) of the Central Excise Act, 1944. The prayer is that the Tribunal be directed to refer the question of law relating to the admissibility of Modvat credit for the opinion of this Court.*
> *Mr. Gumber states that the issue as raised in these cases in respect of different items is covered by the decision of their*

Lordships of the Supreme Court in Commissioner of Central Excise Coimbatore and others vs. Jawahar Mills Ltd. and others 2001 (6) Supreme Court Cases 274. The answer is against the revenue. Thus, above all the petitions have to be dismissed in limine.

Ordered accordingly."

2. In the present case, the same issue is involved as was involved in the cases (supra). Accordingly, the present petition is allowed in the aforesaid terms. The observations and order passed above shall apply *mutatis mutandis* to the present case.

3. All pending misc. application(s) also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

(SANJAY VASHISTH)
JUDGE

14.10.2024
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1. Whether speaking/reasoned? : Yes/No
2. Whether reportable? : Yes/No