

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.939-941 OF 2010

(Arising out of S.L.P. (C) Nos.13061-13063 of 2009)

M/s. Leader Engineering Works Etc.Etc. ...Appellant(s)

Versus

Commissioner of Central Excise, Jalandhar ...Respondent(s)

O R D E R

Delay condoned.

Leave granted.

Heard learned counsel on both sides.

By consent, the matter is taken up for final hearing.

Having gone through the record, we are of the view that the appellants herein will not re-agitate the issue of applicability of Section 11-A of the Central Excise Act. However, the following three issues will have to be decided *de novo* by the Tribunal, which are as follows:

“[i] Whether the appellants were entitled to Modvat Credit;

[ii] Whether the Authorities were justified in demanding duty and imposing penalties in the light of the statement of the appellants that the penalty against the supplier of raw material and the importer had to be set aside and that there was no challenge to that order by the Revenue; and

...2/-

[iii] Whether the demand of duty and imposition of penalty was justified when the demand of duty and imposition of penalty stood set aside in the case of some other parties."

Accordingly, the impugned order is set aside and the matter is remitted to the Tribunal for *de novo* consideration in the light of afore-stated three issues formulated by this court. The civil appeals stand disposed of with no order as to costs.

.....J.
[S.H. KAPADIA]

.....J.
[SWATANTER KUMAR]

New Delhi,
January 25, 2010.



JUDGMENT