(2001) 12 SC CK 0033

In the Supreme Court Of India

Case No : C.A. No.-002753-002754 / 1998

I.T.C. Limited APPELLANT

Vs

Commissioner of Central Excise, Bangalore RESPONDENT

Date of Decision : 14-12-2001

Acts Referred:

Central Excises and Salt Act, 1944 — Section 35C
Constitution of India, 1950 — Article 141

Citation : (2002) 140 ELT 4

Hon'ble Judges : S. P. Bharucha, C.J;Shivaraj V. Patil, J;B. P. Singh, J

Bench : Full Bench

Advocate : S. Ganesh, Sashidharan, Rajan Narain and Sushma Sharma, for Law Consult, for the Appellant; Soli J. Sorabjee, AG, K. Swami and B. Krishna Prasad, for the Respondent

Final Decision : allowed

Judgement

1. Leave granted.

2. The order under challenge has been passed by the Customs, Excise and Gold (Control) Appellate Tribunal on appeals filed by the Revenue and the assessee. After a detailed discussion, the Tribunal has said that a more detailed study should have been made as also a careful analysis of the discrepancies said to be found in the assessee''s explanation. Therefore, the Tribunal has, after allowing the appeals, set aside the orders under challenge before it and remanded the matter to the jurisdictional Commissioner for re-adjudication, giving the parties an opportunity of being heard and placing relevant material on record.

3. It is submitted before us on behalf of the assessee that relevant material was before the Tribunal and, if required, it could have asked for more but it should have disposed of the appeal itself instead of making the order of remand. The learned Attorney General has agreed that this is the appropriate course to follow. If the Tribunal required more evidence, it could have called for the same.

4. We think that, given the facts and circumstances, this is a fair view to take.

5. Accordingly, the civil appeal is allowed. The order under appeal is set aside. The appeals before the Tribunal (E/451/92 MAS and E/1304/2000 MAS) are remanded to the Tribunal for being heard and disposed of afresh in the light of what we have stated above.

6. No order as to costs.

