**(1997) 01 MP CK 0034**

**In the Madhya Pradesh High Court**

**Case No :** Miscellaneous Petition No. 37/94

Steel Ingots Limited APPELLANT

Vs

Union of India (UOI) and Another RESPONDENT

**Date of Decision :** 29-01-1997

**Acts Referred:**
Constitution of India, 1950 — Article 226, 227

**Citation :** (1997) 70 ECR 247

**Hon'ble Judges :** N.K. Jain, J

**Bench :** Single Bench

# Judgement

N.K. Jain, J.—By this petition filed under Article 226/227 of the Constitution of India the petitioner seeks quashment of show-cause notice dated 28.6.1993 (Annexure P2) issued by the respondent No. 2 disallowing Modvat Credit on the items like Refractory Bricks, Mortar, Nozolex, Ramming Mass etc.

2. The petitioner is a Company incorporated under the Companies Act, 1956 and manufactures steel ingot/C.C. billets falling under Chapter 72 of the Central Excise Tariff Act, 1985. According to the petitioner in the process of manufacturing refractory bricks, mortar, nozolex, ramming mass etc., are used and which are consumable items for which the petitioner is entitled to modvat credit. The respondent No. 2 has, however, issued the show-cause notice (Annexure P2) asking the petitioner to show-cause as to why modvat credit taken by the petitioner to the tune of Rs. 2,03,737.24 should not be disallowed and recovered from him under the provisions of Rule 57-1 of the C.E. Rules, 1944. It is this notice (Annexure P2) which is impugned in this petition.

3. I have heard counsel for the parties.

4. Both the parties agree before me that the controversy projected in this writ petition has been decided by the Tribunal in the cases reported in 1994 (71) ELT 776 and 1994 (55) ECR 407 and, therefore, the matter be left for decision of the department in conformity with the aforesaid decisions.

 

5. In view of the aforesaid position, it is not necessary for me to examine the merits of the matter. Instead, as agreed I quash the show-cause notice dated 28.6.1993 (Annexure P2) and grant liberty to the respondents to decide the question of admissibility or otherwise of the modvat credit on the aforesaid inputs and pass appropriate orders in accordance with law and keeping in view the directions contained in the aforesaid decisions of the Tribunal.

6. The petition thus stands disposed of as aforesaid but without any order as to costs.

 