

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CM 24017/-CII/2019 in/and
CEA 26/2005.
Date of decision:22.11.2019.**

Commissioner, Central Excise Chandigarh

.....Appellant.

v.

M/s Surindera Steel Rolling Mills.

.....Respondents

**Coram: Hon'ble Mr.Justice Jaswant Singh
Hon'ble Mr.Justice Lalit Batra**

Present:- Mr.Sharan Sethi,Advocate for the appellant.

Mr.Surjeet Bhadu,Advocate for respondent.

Jaswant Singh,J.

Revenue is in appeal under Section 35 H (I) of the Central Excise Act,1944 with the prayer to direct Customs,Excise and Gold (Control)Appellate Tribunal-respondent no.2 to state facts of the case and refer question of law to this Court arising out of its Final Order dated 4.4.2003.

The following substantial questions of law have been raised in this appeal:-

- i) Whether Rule 5 of the *hot Re-rolling Steel Mills Annual Capacity Determination Rules,1997* would apply to a case wher annual capacity of production has been redetermined in terms of Rule 4(2) on account of change in parameters even though redetermined annual capacity is less than the actual production for the financial year 1996-97.
- ii) Whether Tribunal can decide the re-hearing furnace as "Batch type" when Commissioner has determined the same as "Pusher type" after considering the

technical literature with specification, report of the technical expert after physical examination and opinion of the technical institute and in light of the decision of CEGAT in the case of M/s G.C.Bansal Steel Rolling Mills v CCE, Chandigarh.

iii) Whether decision given by the double member bench on similar issue can be over ruled by decision of single member.”

The appeal is pending decision.

Now application bearing CM 24017-CII/2019 has been filed on behalf of the appellant with the averments that vide instructions dated 22.8.2019, the Central Board of Indirect Taxes and Customs (CBIC) has prescribed the monetary limits for filing and prosecuting appeals in this Court at Rs.1 crore and above. It is further stated therein that vide email dated 5.11.2019, counsel for the appellant has received instructions for withdrawal of the present appeal since the duty amount involved in this matter is Rs.59,87,098/- and thus below the monetary limit prescribed by CBIC. In the end prayer has been made to grant permission to appellant to withdraw the appeal. The application is supported by an affidavit of the counsel for the appellant.

In view of the contents of the application, supported by an affidavit of the counsel for the appellant, CM 24017-CII/2019 is allowed and CEA No.26 of 2005 is dismissed as withdrawn.

(Jaswant Singh)
Judge

22.11.2019.
joshi

(Lalit Batra)
Judge