**Victor Industries Vs. Commissioner of Central Excise**

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**SooperKanoon Citation** : sooperkanoon.com/14014

**Court** : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

**Decided On :** Aug-01-1998

**Reported in** : (1999)(112)ELT968Tri(Mum.)bai

**Appellant** : Victor Industries

**Respondent** : Commissioner of Central Excise

**Judgement** :
1. The question involved in this case is about the availment of Modvat credit on the inputs when such inputs are used in the manufacture of final product which are cleared from the factory after filing declaration under Rule 57G of the Central Excise Rules.

2. Further, the issue involved in this case is about the transitional credit as provided under Rule 57H on inputs contained in the semi-finished products or finished products lying in the factory on the date of filing the declaration under Rule 57G and the period involved is from 5-5-1989 to 24-5-1991. When Rule 57H stood amended by Notification 25/89-C.E. (N.T.), dated 5-5-1989 the matter is not res Integra. By two judgments, viz. Konark Cement & Asbestos Ltd. v.C.C.E., Bhubaneshwar -1994 (69) E.L.T. 669 and 1994 (73) E.L.T. 694 the matter has been decided in favour of the revenue. However, by a subsequent decision in the case of Suresafe Glass Works (P) Ltd. v.C.C.E. - 1996 (83) E.L.T. 328 the learned Single Member of the Calcutta had held in favour of the assessee. The WRB in the case of Leo Electric & Battery Co. in Appeal No. E/170/92-Bom in Order No. 1945/96/WRB, dated 21-6-1996 has referred the matter to the President for as

Larger Bench. In respect of the identical questions arising in those appeals which are identical with that of the questions arising in this appeal.

3. Hence, following the decision of the WRB made in Appeal No. E/170/92 in Order No. 1945/96,1 also refer the question to the President for constituting the Larger Bench of three Members. The Registry is requested to move the President for constituting Larger Bench for decision of merits and bring final settlement to the debatable issue raised in this case. The Registry may inform the Hon'ble President about the existence of earlier reference and this case may also be tagged along with the case of Leo Electric & Battery Co. in Appeal No.170/92.