

**(2002) 05 P&H CK 0028**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** CCES No. 100 of 2001

CCE, Commissionerate-I,  
Chandigarh

APPELLANT

Vs

Suraj Udyog

RESPONDENT

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**Date of Decision:** May 13, 2002

**Acts Referred:**

- Central Excises and Salt Act, 1944 - Section 35H(1)

**Citation:** (2002) 144 ELT 293

**Hon'ble Judges:** N.K. Sud, J; Jawahar Lal Gupta, J

**Bench:** Division Bench

**Advocate:** Ranjana Shahi, for the Appellant;

**Final Decision:** Dismissed

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### **Judgement**

@JUDGMENTTAG-ORDER

Jawahar Lal Gupta, J.

Respondent No. 1 took Modvat credit of Rs. 68,897/- on the basis of the Gate passes issued before March 31, 1994 and endorsed thereafter. The Revenue did not accept the claim of the assessee. The order passed by the Assessing Officer was challenged in appeal. It was accepted. Then the claim of the Revenue was rejected by the Tribunal. It has now filed this petition u/s 35H(1) of the Central Excise Act, 1944 with the prayer that the Tribunal be directed to refer the following question of law for the opinion of this Court :-

"Whether gate passes issued prior to 1-4-99 but endorsed after that date would fall under the coverage of entry No. 10 in the table to the Notification No. 16/94 (N.T.), dated 30-3-94 and would consequently become eligible document for taking credit under the Modvat Scheme ?"

2. Ms. Ranjana Shahi, learned Counsel for the petitioner, states that the matter is concluded against the Revenue by the decision of the Gujarat High Court in Commissioner of Central Excise, Ahmedabad-I v. Gujarat Medcraft Pvt. Ltd., Reference Application Nos. 16, 26, 27/2000, decided on November 22, 2000. This decision has been accepted by the Revenue.

3. In view of the above, the petition is dismissed in limine.