

**(2006) 05 AHC CK 0264**

**Allahabad High Court**

**Case No:** None

Commissioner of C. Ex.

APPELLANT

Vs

Prism Cement Ltd.

RESPONDENT

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**Date of Decision:** May 4, 2006

**Acts Referred:**

- Central Excises and Salt Act, 1944 - Section 35G

**Citation:** (2008) 9 STR 12

**Hon'ble Judges:** Vinod Chandra Misra, J; Sushil Harkauli, J

**Bench:** Division Bench

**Final Decision:** Dismissed

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### **Judgement**

@JUDGMENTTAG-ORDER

1. This is a Central Excise appeal u/s 35G of the Central Excise Act, 1944. Only one question of law has been framed by the appellant namely, "whether refund can be sanctioned to the respondents without satisfying the requirement of principle of unjust enrichment". A perusal of the Tribunal's order dated 24-10-2005 shows that both the Tribunal and the Commissioner (Appeals) have recorded a finding that no unjust enrichment has taken place. For recording this finding, reliance has been placed upon a certificate from a Chartered Accountant and books of account (General Ledger) for the relevant period.

2. It appears that the contention of the appellant was that this material i.e., certificate of the Chartered Accountant and the books of account were not sufficient for recording a finding that there was no unjust enrichment. Sufficiency of evidence and findings of fact are not matters on which an appeal can be entertained.

The appeal is, therefore, dismissed.