(2009) 01 SC CK 0038

Supreme Court of India

Case No: Civil Appeal No. 4977 of 2008

Commr. of Central Excise, Haldia	APPELLANT
Vs	
Exide Industries Ltd.	RESPONDENT

Date of Decision: Jan. 16, 2009

Acts Referred:
Central Excises and Salt Act, 1944 â€" Section 11AC

Citation: (2009) 01 SC CK 0038

Hon'ble Judges: S. H. Kapadia, J; Aftab Alam, J

Bench: Division Bench

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

1. This Civil Appeal concerns quantification of penalty u/s 11AC of the Central Excise Act, 1944. The issue is squarely covered by the judgment

of this Court in the case of Union of India Vs. Dharmendra Textile Processors & Ors., reported in 2008 (13) SCALE 233.

2. At this stage, learned Counsel for the assessee states that he is challenging the very levy of penalty on the facts and circumstances of the case.

He seeks time to put in counter. His application is rejected for the simple reason that in this Civil Appeal, we are concerned with the quantum of

penalty and not with the levy of penalty. As regards levy of penalty, the Tribunal has rejected the contention of the assessee that penalty is not

leviable. However, that decision of the Tribunal has not been challenged by the assessee. Hence, our order allowing this Civil Appeal will not come in the way of the assessee challenging the order of the Tribunal on the question of imposition of penalty. However, we express no opinion on the

merits of that case.

3. Subject to above, Civil Appeal is allowed.