

**SUPREME COURT OF INDIA**

Commnr.of Central Excise, Bhavnagar

Vs.

Ultra Tech Cement Ltd.

C.A.No.6410 of 2008

(S.H. Kapadia and Aftab Alam JJ.)

17.08.2009

**JUDGMENT**

**S.H.Kapadia, J.**

1. Leave granted.

2. For the reasons given in our judgment delivered today in the case of M/s. Maruti Suzuki Ltd. v. Commissioner of Central Excise, Delhi-III - Civil Appeal No. of 2009 - (arising out of S.L.P. (C) No.3826 of 2009), the civil appeals herein filed by the Department are allowed and the matters stand remitted to the Adjudicating Authority who will in each case ascertain whether any excess electricity was wheeled out/cleared at a price in favour of joint ventures, vendors, sister companies etc. and, if so, the Adjudicating Authority will calculate and charge duty or reverse credit to that extent alone. However, as stated above, the Department will not impose penalty in that regard for the disputed period(s).

3. Subject to above, the civil appeals filed by the Department are accordingly allowed with no order as to costs.