A

M/S. CHAUDHARANA STEELS (P) LTD.

v.

THE COMMISSIONER OF CENTRAL EXCISE,
ALLAHABAD

(Civil Appeal No. 5389 of 2007)

B

MAY 8, 2009

**[DR. ARIJIT PASAYAT AND ASOK KUMAR
GANGULY, JJ.]**

C

*Central Excise Act, 1944 – s. 35-G – Condonation of
delay in filing appeal under – Power of – Held: High Court
has no power to condone the delay.*

*Commissioner of Customs, Central Excise, Noida v.
Punjab Fibres Ltd., Noida* **2008 (3) SCC 73**; *Commissioner
of Customs and Central Excise v. M/s. Hogo India (P) Ltd.
and Anr.* **2009 (4) SCALE 374**, relied on.

D

Case Law Reference

E

2008 (3) SCC 73   Relied on.   Para 1

2009 (4) SCALE 374   Relied on.   Para 1

CIVIL APPELLATE JURISDICTION : Civil Appeal No.
5389 of 2007.

F

From the Judgment & Order dated 27.07.2007 of the High
Court of Judicature at Allahabad in Central Excise Appeal No.
23 (D) of 2005.

Pankaj Bhatia, Vivek Choudhary and Jainendra
G Maldahiyar (T. Mahipal) for the Appellants.

Navin Prakash (B.V. Balaram Das) for the Respondents.

The Judgment of the Court was delivered by

H

DR. ARIJIT PASAYAT, J. 1. In this appeal the only A question that arises for consideration is whether there is power for condonation of delay in filing an appeal under Section 35-G of the Central Excise Act, 1944 (in short the 'Act'). By judgment delivered in *Commissioner of Customs, Central Excise, Noida v. Punjab Fibres Ltd., Noida* (2008 (3) SCC 73) B it was held that the High Court has no power to condone delay in seeking reference under Section 35-H of the Act. Doubting correctness of the view reference was made to larger Bench. By judgment dated 27.3.2009 a three-judge Bench in *Commissioner of Customs & Central Excise v. M/s. Hongo* C *India (P) Ltd. & Anr.* 2009 (4) SCALE 374 concurred with the view taken by the two-judge Bench in *Punjab Fibres* case (supra). The decision has full application to the present case also.

2. That being so this appeal deserves to be dismissed D which we direct. No costs.

N.J   Appeal dismissed.