

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
EXCISE APPEAL BRANCH

Appeal No. E/2307/2007 ~~7~~ E/S/1938/07

Date 12/10/2007

Assistant Registrar
C.E.S.T.A.T, New Delhi

To :
AMBUJA CEMENT LTD
VILLAGE- SULI, P.O.- DARLAGHAT, DISTT-SOLAN,
HIMACHAL PRADESH.

AMBUJA CEMENT LTD

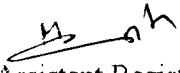
Appellant

C.C.E. CHANDIGARH

Vs
Respondent

STAY ORDER No. 1012/07-EX.

I am directed to transmit herewith a certified copy of Final order No. 511/07-EX. dated 28-9-07
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944


Assistant Registrar
(Excise Appeal Branch)

Copy to :

1. Respondent

C.C.E. CHANDIGARH

C.R. BUILDING, PLOT NO. 19, SECTOR 17-C,
CHANDIGARH 160017

2. Adv. / Consult

SH. SILADITYA SARKAR, CONSULTANT
C/O APPELLANT

3. S.D.R.

~~4. J.C.D.R.~~

5. Bar association. CESTAT. New Delhi

6. M/s. Deeparchi Publications, M-93, marg. 43, saket, New

7. M/s Centax Publications (P) Ltd., 1512-E, Bhishm Pitamah

8. Excise & Customs cases, B-37, Sector -1, NOIDA - 201301

9. R. Venkatraman Constt. 44-B, S.Suncity, Ghaziabad -

10. Nidheshak publications, I.P.Estate, new Delhi

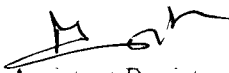
11. Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh.

12. Co, Law Institution

13. TAX INDIA, B-XI/8183, Vasant Kunj, New Delhi - 110070

14. Office Copy

15. Guard file


Assistant Registrar
(Excise Appeal Branch)

**IN THE CUSTOMS, EXCISE AND SERVICE TAX
APPELLATE TRIBUNAL, NEW DELHI**

**PRINCIPAL BENCH NEW DELHI
COURT NO.III**

Appeal No.E/2307/07-Excise and E/S/1938/07-Excise.

(Arising out of the Order-in-appeal No.175/CE/CHD/2007 dated 12.6.2007 passed by the Commissioner (Appeals), Central Excise, Chandigarh) .

For approval and signature:

Hon'ble Dr. T.V. Sairam, Member(Technical)

Hon'ble Mr. P.K. Das, Member(Judicial)

-
1. Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982? : *yes*
 2. Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not : *yes*
 3. Whether their Lordships wish to see the fair copy of the Order? *Seen*
 4. Whether Order is to be circulated to the Departmental authorities? : *yes*
-

M/s. Ambuja Cement Ltd.

Appellants.

Versus

CCE, Chandigarh.

Respondent

Appearance

Shri Siladitya Sarkar, Consultant for the applicants..

Shri Vinay Chaudhary, Authorized Representative (DR) for the respondent.

**CORAM: Hon'ble Dr. T.V. Sairam, Member (Technical).
Hon'ble Mr. P.K.Das, Member(Judicial)**

Date of decision:28.9.2007.

Final Order No. 511/2007EX
stay ORDER NO. 1012/2007EX

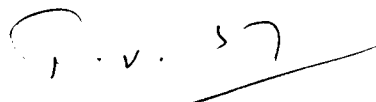
Per Dr. T.V. Sairam:

The appellant is contesting the order of the Commissioner (Appeals) made on 12.6.2007. In the impugned order, the appellants are found not to comply with the stay order dated 23.5.2007. Instead of complying with the stay order, the appellant filed an application seeking modification of the stay order on 4.6.2007. It is clear from the penultimate paragraph of the Commissioner(Appeals)'s order that the said application seeking modification made on 4.6.2007 has been considered by the Commissioner (Appeals) and a personal hearing was granted to them before passing the order. In this context, learned counsel for the appellant relies upon this Tribunal's orders including the one passed in Swastik Corporation Vs. CCE, Pondicherry, reported in 2005 (182) ELT 321 (Tri.-Chennai). In this order, it has been held that having failed to give assessee an opportunity of hearing on the modification application, order suffers vice of violation of natural justice.

2. However, the learned D.R. contends that the modification application dated 4.6.2007 has been duly considered by the learned Commissioner (Appeals) as evident in the penultimate paragraph of the said order. We find however, that it has not been fully considered in view of the fact that the appellants were not given an opportunity of being heard on the said modification application. We, therefore, find that the impugned order suffers from violation of basic principles of natural justice. We, therefore, set aside the impugned order and remand the matter to the Commissioner (Appeals) with the direction that after affording personal hearing and following the principles of natural justice, the case be disposed of in accordance with law.

3. The appeal stands disposed of accordingly.

(Dictated and pronounced in open court).



(Dr. T.V. Sairam)
Member(T)



(P.K. Das)
Member(J).

(rcs).