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

Appeal No. E/3151/2007 Date 07/03/2008

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

To :
HINDUSTAN ZINC LTD.
YASHAD BHAWAN, UDAIPUR, RAJASTHAN
313001

HINDUSTAN ZINC LTD. Appellant
Vs
C.C.E. JAIPUR II Respondent

I am directed to transmit herewith a certified copy of Final order No. 77/08 Excise dated 5-2-08 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. JAIPUR II
   N.C.R.BUILDING, STATUE CIRCLE, "C" SCHEME,
   JAIPUR 302005.
2. Adv. / Consult
   MR.ANAND BHATACHARYA
   BINDU BHAWAN, 49, SHASTRI MARG, UDAIPUR(RAJ)
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 Publictions (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 & SERVICE TAX APPELLATE TRIBUNAL, WEST BLOCK NO. 2, R.K. PURAM, NEW DELHI

<u>COURT -II</u>

<u>EXCISE APPEAL No. 3151 of 2007</u>

[Arising out of Order-in-Appeal No. 525(RKS)CE/JPR-II/007 dated 25.9.2007 passed by the Commissioner (Appeals-II), Central Excise, Jaipur]

For approval and signature:

Hon'ble Mr. S.S. Kang, Vice President,
Hon'ble Mr. P. Karthikeyan, Member (Technical)

1.	Whether Press Reporters may be allowed to see the order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	No
2.	Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	No
3.	Whether their Lordships wish to see the fair copy of the order?	Yes
4.	Whether order is to be circulated to the Departmental authorities?	No

M/s. Hindustan Zinc Limited — Appellants

Vs.

CCE, Jaipur-II — Respondent

Appearance:
Shri Vishvanath Shukla, Advocate for the appellants,
Shri D. Garg, SDR, for the Revenue

Coram:

Hon'ble Mr. S.S. Kang, Vice President,
Hon'ble Mr. P. Karthikeyan, Member (Technical)

Date of Hearing: 05.02.2008

FINAL ORDER NO. 77/08 dated 5/2/08

Per S.S. Kang:

Heard both sides.

2. Applicants filed this application for waiver of duty. Demand is confirmed after denying credit in respect of welding electrodes. We find that the issue is already covered by the decision of the Larger Bench of the Tribunal. Therefore, after waiving condition of pre-deposit of duty appeal itself is being taken up for hearing.

3. The Tribunal in the case of Jaypee Rewa, reported in 2003 (159) ELT 553 and in the case of Treveni Engg., reported in 2005 (186) ELT 158 held that the manufacturer is not entitled for credit in respect of welding electrodes as inputs or capital goods. In view of the above decision we find no infirmity in the impugned order. Appeal is dismissed.

(Dictated & pronounced in the Open Court.)

(S.S. KANG)
VICE PRESIDENT

(P. KARTHIKEYAN)
MEMBER (TECHNICAL)

Dated 7th February, 2008

RK