

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

Appeal No. E/3300/2004

Date 09/07/2008

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

To :
M/S MAIHAR CEMENT

UNIT NO-2, P.O. SARLA NAGAR, MAIHAR, DISTT.
SANTA (M.P.)
M/S MAIHAR CEMENT

C.C.E. BHOPAL

Appellant

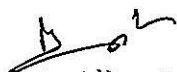
Vs

Respondent

I am directed to transmit herewith a certified copy of Final order No. 433/08-

Excise dated 07-7-08

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. BHOPAL

48, ADMINISTRATIVE AREA, AREA HILLS, HOSHANGABAD ROAD, BHOPAL

2. Adv. / Consult

MR.SANJAY GROVER

LAW OFFICES, E-500, GREATER KAILASH-II, NEW DELHI-110 048.

3. S.D.R.

~~4. I.C.D.R.~~

5. Bar association, CESTAT, New Delhi

6. M/s. Deeparchi Publications, M-93, Marg. 46, Saket, New Delhi 110017

7. M/s Centax Publications (P) Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi -

8. Excise & Customs cases, B-37, Sector -1, NOIDA - 201301 Gautam Budh Nagar, (U.P.)

9. Raghuraman's 44-B, Regal Flat, Shipra Suncity, Indirapuram - 201010, Ghaziabad, DT, U.P.

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

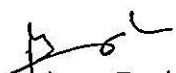
11. Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh, New Delhi - 110026

12. Commercial Laws of India Pvt Ltd Post Bag No. 1033, No.70(Old No. 88), Thyagaraya Road, T. Nagar, Chennai 60017

13. Taxindiaonline.com Pvt.Ltd, B-XI/8183, Vasant Kunj, New Delhi - 110070

14. Office Copy

15. Guard file


Assistant Registrar
(Excise Appeal Branch)

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
West Block No.2, R.K.Puram, New Delhi-110066**

Court No.III

Date of hearing: 3.7.2008

Central Excise Appeal No.3300 of 2004

Arising out of the Order in original No.11/Commr/CEX/2004 dated 31.3.2004 passed by the Commissioner & Customs & Central Excise , Bhopal.

For Approval and Signature:

Hon'ble Mrs. Archana Wadhwa, Member (Judicial)

Hon'ble Mr. M. Veeraiyan, Member (Technical)

1	Whether Press Reporter may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	No
2	Whether it should be released under Rule 27 of 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?	Seen
4	Whether Order is to be circulated to the Departmental authorities?	Yes

Appellant(s)

Respondent

M/s Maihar Cement

vs.

C.C.E.,
Bhopal

Appearance:

Shri S. Grover, Advocate for the appellant(s) and

Shri C.S. Rajput, Authorized Departmental Representative (DR) for the Revenue

Coram: Hon'ble Mrs. Archana Wadhwa, Member (Judicial)

Hon'ble Mr. M. Veeraiyan, Member (Technical)

FINAL Order No. 433 / 08-EX

Per Archana Wadhwa:

A short issue involved in the present appeal is as to whether the appellant is entitled to the benefit of modvat credit in respect of capital goods used at mines situated about 6 kms. away from the factory and the spare parts for the conveyor belts used for transportation of the crushed limestone from the mine to the factory. We find that the issue is no more res integra and stands settled by the Hon'ble Supreme Court in the case of Vikram Cement vs. Commissioner – 2006 (194) ELT 3 (SC), the said decision stands followed by the Tribunal in the same appellant's case vide order No.417-420/06 dated 14.2.2006. We also note that the appellant was one of the parties before the Hon'ble Supreme Court in the case of Birla Corporation Ltd. vs. C.C.E. - 2005 (186) ELT 266 (SC) laying down that such spares of ropeway are entitled to credit and judicial discipline requires to follow the precedent decisions. Inasmuch as the issue is settled, we set aside the impugned order and allow the appeal with consequential relief to the appellant(s).

(Pronounced in the open Court)

(~~Archana Wadhwa~~
Member (Judicial)

(M. Veeraiyan)
Member (Technical)

scd/