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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/4581/2004-4582/2004 Date 16/07/2008

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

To :
CHEIF ENGINEER
CIVIL T & D, MPSEB SHED-14, RAMPUR, JABALPUR

CHEIF ENGINEER Appellant

Vs

C.C.E. BHOPAL Respondent

I am directed to transmit herewith a certified copy of **Final order No**. 466-467/2008 **Excise** dated 14-7-08

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, BHOPAL
2. Adv. / Consult
MR.L.P ASTHANA
R-163, SECOND FLOOR, GREATER KAILASH-1, NEW DELHI - 110 048.
3. C.D.R.
~~4. J.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 Publictions (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)

1 CHIEF ENGINEER
CIVIL T & D, MPSEB SHED-14, RAMPUR, JABALPUR

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

Court No.III

Date of hearing: 14.7.2008

Central Excise Appeal No.4581-4582 of 2004

Arising out of the order in appeal No.442-443/CE/BPL/2004 dated 21.6.04 passed by the Commissioner (Appeals II), C. 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?	N.
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 | Respondent

Chief Engineer,
Civil T & D,
MPSEB

vs.

C.C.E.
Bhopal

Appearance:

Shri L.P. Asthana, Advocate for the appellants and
Shri S. Kumar, 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. 466-467/08-EX

Per Archana Wadhwa:

The dispute in the present two appeals is in respect of the assessable value of PCC poles, which stands arrived at by the lower authorities on the cost basis inasmuch as, with effect from 1.10.99, the value of the comparable goods was not available. Learned Advocate Shri L.P. Asthana does not dispute that the assessable value has to be arrived at on the basis of cost data but submits that the appellate authority has held that the costing data of the goods is not available and as such, the assessable value for the period 1.10.99 onwards would be 115% of the assessable value determined for previous year inasmuch as, there is price increase of the raw material and manufacturing cost by 15%. He, however, fairly agrees that during the relevant period, they could not place the various factors before the authorities below so as to determine the actual cost. He further submits that relevant data is now available with them and requests for remand of the matter.

2. After hearing both sides, we , in view of the statement made by the learned Advocate set aside the impugned order and remand both the appeals to the original adjudicating authority for re-determination of the assessable value on the basis of the actual cost. It is however made clear that if the appellant is not in a position to place on record the evidence as regards the cost data, the authorities would be free to decide the issue according to the best judgment principle. Both the appeals are disposed of in above terms.

(The operative part of the order was pronounced in the open Court)

14/7/08

(Archana Wadhwa)
Member (Judicial)

14/7/08

(M. Veeraiyan)
Member (Technical)

scd/