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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/5609/2004

Date 13/08/2008

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

To :
M/S JALAN CONCAST LTD.
JUNGLE NAKHA NO-2,P.O.JUNGLE BENI MADHAV
GORAKHPUR U.P
M/S JALAN CONCAST LTD.

Appellant
Vs
Respondent

C.C.E.ALLAHABAD

I am directed to transmit herewith a certified copy of **Final order No**.602/08-EX dated 01-8-08

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.ALLAHABAD
   38,M.G.MARG,CIVIL LINES ALLAHABAD U.P
2. Adv. / Consult SH. ATUL GUPTA, B-1/1289-A, VASANT KUNJ, N. DELHI-70
3. S.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. Easy Service Tax Online Dot Com Pvt. Ltd. 407A, Iscon Mall, Above Star India Bazar, Satellite Road, Ahmedabad - 15
15. Office Copy
16. Guard file

Assistant Registrar
(Excise Appeal Branch)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, COURT No.I, NEW DELHI

Excise Appeal No.5609/2004-EX(BR)

(Arising out of order in appeal No.607/CE/Alld/2004 dated 13.8.2004 passed by the Commissioner (Appeals) Customs & Central Excise, Allahabad)

For approval and signature:

Hon'ble Mr. Justice S.N. Jha, President
Hon'ble Mr. M. Veeraiyan, 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 should 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?	Seen
4	Whether Order is to be circulated to the Departmental authorities?	Yes

M/s Jalan Concast Ltd — Appellant
(Rep. by Shri Atul Gupta, Chartered Accountant)

Vs

CCE, Allahabad — Respondent
(Rep. by Shri V.K. Agarwal, DR)

Coram: Hon'ble Mr. Justice S.N. Jha, President
Hon'ble Mr. M. Veeraiyan, Member(Technical)

Date of Hearing: 1.8.2008

Per M. Veeraiyan: FINAL ORDER No 602/08-EX

This is an appeal against the order of the Commissioner No.607/CE/Alld/2004 dated 13.8.2004.

2. Heard both sides.

3. The appellant is a manufacturer of ingots and billets of non-alloy steel which came under compounded levy scheme w.e.f. 1.9.1997. The inputs, if any, used by units manufacturing ingots and billets, were not eligible for captive consumption exemption under Notification No.67 of 1995 dated 16.3.1995 as amended. The appellant got 'steel formers' made and used them in the furnace and which got consumed in the furnace after use for ten to fifteen charges. The original authority confirmed a demand of Rs.47,031.32 as duty on the said steel formers captively consumed during September 1998 to March, 2000 and imposed equal penalty under 11AC and Rs.5,000/- under Rule 173-Q. Commissioner (Appeals) upheld the order of the original authority.

4. The appellant claimed that they were under the bona fide belief that the said steel formers were not excisable and the excisability has been confirmed only later by the Board vide clarification dated 21.2.2003. As the show cause notice has been issued on17-3- 2004 proposing demand relating to the period up to March, 2000, the demand is time barred.

5. We have carefully considered the submissions and perused the records. We dot find any mis-declartion, or suppression of relevant facts by the appellant. We find the show cause notice has been issued on

17.3.1994 on the basis of circular No.690/6/2003-CX dated 20.1.2003. In the given facts and circumstances of the case, we are of the view that the demand of duty invoking extended time limit is not warranted. Therefore, we allow the appeal on the ground of limitation itself without going into the merits of the case.

6. Appeal is allowed with consequential relief.

(Operative part of the order was pronounced in the open Court).

(Justice S.N. Jha)
President

(M. Veeraiyan)
Member(Technical)

MPS*