

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

Appeal No. E/2183/2008-2184/2008 - EX[DB]

Date 05/12/2008

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

To :
AMBUJA CEMENTS LTD (UNIT: BATHINDA)
MALOUT ROAD, BATHINDA
AMBUJA CEMENTS LTD (UNIT: BATHINDA)

Appellant

Vs
Respondent

C.C.E. LUDHIANA

I am directed to transmit herewith a certified copy of **Final order No. 911-912/08 & S.O.NO.1247- 48/08-EX.DT.02-12-08**
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. LUDHIANA

CENTRAL EXCISE HOUSE, 'F' BLOCK, RISHI NAGAR, LUDHIANA 141001 (PUNJAB)

2. Adv. / Consult *SH. B.L. NARASIMHAN, ADV.,*
B-6/10, S.J. ENC. N. DELHI-29

3 ~~S.D.R~~

~~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 Publications (P) Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New - 3

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), Thvagarava Road, T. Nagar, Chennai

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

14 Easy Service Tax Online Dot Com Pvt Ltd. 407A, Iscon Mall, Above Star India Bazar, Satellite Road, Ahmedabad-1

15 Office Copy

16 Guard file


Assistant Registrar
(Excise Appeal Branch)

~~AMBUJA CEMENTS LTD UNIT- BATHINDA.~~
~~MALOUT ROAD, BATHINDA~~

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

COURT NO. II

**Excise Stay Application No. 2152-2153 of 2008-Ex. in
Excise Appeal No. 2183-2184 of 2008**

(Arising out of Order-in-Appeal No. 230-231/CE/LDH/08 dated 8.8.2008 passed by
the Commissioner of Central Excise (Appeals), Chandigarh)

Ambuja Cements Ltd.

Appellant
Shri B.L. Narasimhan, Advocate with
Sh. Ravi Raghvan, Advocate

Vs.

CCE, Ludhiana

Respondent
Shri Anil Khanna, DR

Date of Hearing: 25.11.08

CORAM: HON'BLE MR. D.N. PANDA, MEMBER (JUDICIAL)
HON'BLE MR. RAKESH KUMAR, MEMBER (TECHNICAL)

STAY Order No....1247-1248/08-EX dated.....
FINAL ORDER NO 911-912/08-EX

Per D.N. Panda :

Ld. Counsel Shri B.L. Narasimhan submits that similar
such issue of adjustment of Cenvat credit arose out of
Service Tax paid being subject matter of appeal before
Larger Bench of the Tribunal and the appellant having
been granted stay by Hon'ble Punjab & Haryana High

Court on similar issue by order dated 5.10.2007, no pre-deposit may be insisted during pendency of the appeal. He draws our attention to page 181-182 of the paper book in support of his contentions above.

2. Ld. DR does not dispute the averment of the appellant.

3. We considered the totality of the facts and circumstances of the matter. Ld. Counsel further submits that the Id. Appellate authority has not decided the matter on merit but dismissed the appeal for no pre-deposit before him. We consider that keeping the matter before the Tribunal pending shall serve no useful purpose of law. Therefore, we direct the Id. Appellate Authority below to consider the claim of the appellant in the light of the averment aforesaid and deal the matter in accordance with law.

4. In view of our aforesaid observation, dispensing with pre-deposit, we remand the appeal to appellate authority below who shall with due regard to the decision of the Larger Bench and the decision of Hon'ble High Court of Punjab & Haryana *shall deal the appeal* while disposing the matter. The appellate authority below shall also decide all legal issues before that authority, granting fair opportunity of hearing to both sides.

2. In the result, both the stay applications and appeals are disposed in the above manner.

(Dictated & pronounced in open Court)

(D.N. PANDA)
JUDICIAL MEMBER

(RAKESH KUMAR)
TECHNICAL MEMBER

RM