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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/5278/2004 - EX[DB] Date 19/11/2008

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

To :
C.C.E. RAIPUR (C.G.)
DHAMTARI ROAD, TIKAPARA, RAIPUR

C.C.E. RAIPUR (C.G.) Appellant
Vs
M/S LAFARGE INDIA LTD. Respondent

I am directed to transmit herewith a certified copy of **Final order No**. 876/2008-**EX[DB]** dated 27-10-08 passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(Excise Appeal Branch)

Copy to :
1. Respondent
M/S LAFARGE INDIA LTD.
ARESMETA CEMENT PLANT, P.O.GOPAL NAGAR, DISTT. JANJGIR-CHAMPA
2. Adv. / Consult SH. PRASHANT SHUKLA, ADV., A-345(FF), DEFENCE COLONY, N. DELHI-24
3 CD.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 - 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), Thyagaraya Road, T. Nagar,Chennai
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-1
15 Office Copy
16 Guard file

Assistant Registrar
(Excise Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
COURT NO.II

E/Appeal No.5278/2004 –EX(BR)

(Arising out of order in appeal No.171/RPR.I/2004 dated 21.7.04 passed by the Commissioner of Central Excise (Appeals), Raipur)

For approval and signature:

Hon'ble Mr.P.K. Das, Member(Judicial)
Hon'ble Mr. Rakesh Kumar, 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?
2. Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not ?
3. Whether Their Lordships wish to see the fair copy of the Order ?
4. Whether Order is to be circulated to the Departmental authorities?

Yes

CCE, Raipur — Appellant
(Rep. by Shri Virendra Chaudhary, DR)

Vs

M/s Lafarge India Ltd — Respondent
(Rep. by Shri Prashant Shukla, Advocate)

Coram: Hon'ble Mr P.K. Das, Member(Judicial)
Hon'ble Mr. Rakesh Kumar, Member(Technical_

Date of Hearing: 27.10.08

FINAL Order No. 876/2008 – Ex/~~2008~~ ~~SM~~(BR)

Per Rakesh Kumar:

The issue involved in this appeal of the Revenue is as to whether interest on wrongly taken Cenvat credit was recoverable from the respondents. It has been pointed out that the item on which the Cenvat credit has been taken is explosive used in mines and during the period of dispute, the Department had taken a view that Cenvat credit of duty on explosives is not admissible. However, this view now stands settled by the Hon'ble Supreme Court in the case of Vikram Cement Vs CCE reported in 2006 (194) ELT 3 wherein the Hon'ble Supreme Court held that explosives used in the mines are entitled for cenvat credit. When there is no wrongly taken cenvat credit, there is no question of recovery of any interest on the same. We also find that earlier the Revenue's appeal on the issue or irregular cenvat credit has been dismissed by this Tribunal vide Final Order No. 601/2008-EX dated 7.8.2008. In view of that, we find no merit in the appeal and the same is dismissed.

(Order dictated and pronounced in the open Court).

(P.K. Das)
Member(Judicial)

(Rakesh Kumar)
Member(Technical)

MPS*