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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/246 /2006,523 /2006 - EX[DB]

Date 01/10/2009

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

To :
JINDAL STEEL & POWER LTD.
PB-16,KHARSIA ROAD, RAIGARH.
JINDAL STEEL & POWER LTD.

Appellant

Vs

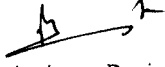
Respondent

C.C.E. RAIPUR

I am directed to transmit herewith a certified copy of Final order No. 752-753/

2009 EX[DB] dated 29-9-09

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. RAIPUR (VICE VERSA)

CENTRAL EXCISE BUILDING, DHAMTARI ROAD, TIKRAPARA, RAIPUR 492001.

2. Adv. / Consult

MR.L.P. ASTHANA & MS REENA KHAIR

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 Director Publications, Customs, Excise. I.P. Estate, New Delhi

7 M/s Centax Publications Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi - 3

8 Commercial Laws of India Pvt Ltd. Post Bag No. 1033, No.2(Old No. 36), Vaithyaram Street, T. Nagar, Chennai -17

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

10 M/s Manupatra Information Solutions Pvt Ltd. Excise & Customs Cases B-37, Sector - 1, Noida - 201301, Gautam Budh Nagar, (UP)

11 M/s. Deeparchie Publications, M-93, Marg. 46, Saket, New Delhi 110017

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

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

14 Easy Service Tax Online Dot Com Pvt Ltd. 407A, Iscon Mall, Above Star India Bazar, Satellite Road, Ahmedabad-15

15 LAWCRUX Advisors Pvt Ltd, LAW House, 1-8, Sector - 10, Faridabad 121003 (Haryana)

16 Office Copy

17 Guard file


Assistant Registrar
(Excise Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST BLOCK NO.II, R.K. PURAM, NEW DELHI-110066.
BENCH-DB

Excise Appeal No.246/2006
Excise Appeal No.523/2006

(Arising out of Order-in-Appeal No.135/RPR-I/2005 dated 09.11.2005
passed by the Commissioner of Central Excise, (Appeals-I), Raipur)

Date of Hearing: 29.09.2009
Date of decision: 29.09.2009

M/s. Jindal Steel & Power Ltd. Appellant
(Appeal No.E/246/2006)

Vs.

Commissioner of Central Excise, Raipur Respondent

Commissioner of Central Excise, Raipur Appellant
(~~Appeal No.E/523/2006~~)

Vs.

M/s.Jindal Steel & Power Ltd. Respondent

Present for the Appellant: Shri A.Jaju, Advocate
Ms.Reena Khair, Advocate

Present for the Respondent: Shri S.K.Panda, Joint CDR
Shri Vijai Kumar, SDR

Coram: Hon'ble Mr.D.N.Panda, Judicial Member
Hon'ble Mr. Rakesh Kumar, Technical Member

FINAL ORDER NO. 752-753/09 **DATED:29.09.2009**

PER: D.N.PANDA

Learned Counsel fairly submits that while deciding the case,
learned Commissioner had no advantage of reading judgement in
Vikram Cement -2006 (194) ELT 3 (SC). Therefore, the first appellate
authority went by decision of J.K.Udaipur Udyog -2004 (171) ELT 289
(SC). Learned Counsel submits that if first appellate authority re-

examine the matter in the light of the ratio laid down in Vikram Cement, there may not be further litigation.

2. Learned SDR submits that authority below may have advantage of both judgements again while deciding the matter. So also, authority below should not ^{be} precluded_{ed} to make application of law in relation to consequences ^{of} any that may arise upon fresh adjudication.

3. Heard both sides.

4. When there is denial of justice brought out by learned Counsel to our notice it would be proper to remit the appeals to first appellate authority to hear the matter afresh and pass appropriate orders. Needless to mention that both sides are entitled to a reasonable opportunity of hearing and adducing evidence as well as making submission.

5. In the result, both appeals are disposed of ~~and~~ remanding the matter to the first appellate authority.

[Dictated & Pronounced in the open Court].

(D.N.PANDA)
JUDICIAL MEMBER

(RAKESH KUMAR)
TECHNICAL MEMBER

mk