

TELEGRAM : CEGCANAL
Website : www.cestat.gov.in

REGISTERED / AD
Email : delhi@cestat.gov.in

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

Appeal No. ST/485 /2006

Date 01/07/2008

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

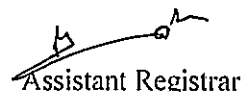
To :
M/S DIAMOND CEMENT.
(PROP MYSORE CEMENT LTD), VILLAGE-
MADORA, DISTT-JHANSI.
M/S DIAMOND CEMENT.

C.C.E.KANPUR

Appellant

Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No. ST/98/08 Customs dated 24/6/08
passed by the Tribunal under Section 129, (B) of the Customs Act, 1962 & Financial Act 1994 relating to Service Tax


Assistant Registrar

(Customs Appeal Branch)

Copy to :

1. Respondent

C.C.E.KANPUR

117/7, SARVODAYA NAGAR, KANPUR.

2. Adv. / Consult

MR.V. LAXMIKUMARAN

B-6/10, SAFDARJUNG ENCLAVE, NEW DELHI-110029

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

8. Excise & Customs cases, B-37, Sector -I, 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
(Customs Appeal Branch)

**IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL**
West Block No. 2, R.K. Puram, New Delhi – 110 066.
Principal Bench, New Delhi

COURT NO. II
Service Tax Appeal No. 485 of 2006

[Arising out of the Order-in-Appeal No. 271-CE/APPL/KNP/2006 dated 30/06/2006 passed by The Commissioner (Appeals), Central Excise, Kanpur.]

For Approval and signature :

Hon'ble Shri S.S. Kang, Vice President

Hon'ble Shri 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 would 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 :
Department Authorities?

M/s Diamond Cement

Appellant

Versus

CCE, Kanpur

Respondent

Appearance

Shri Ravi Raghavan, Advocate – for the appellant.

Shri R. K. Verma., Authorized Representative (DR)– for the
Respondent.

CORAM: Hon'ble Shri S.S. Kang, Vice President
Hon'ble Sh. Rakesh Kumar, Member (Technical)

DATE OF HEARING : 24/06/2008.

Final Order No. 57/98/08 Dated : 24/6/08

Per. S.S. Kang :-

Heard both sides. Appellant filed this appeal against the impugned order, whereby the refund claim of the appellant was rejected. The appellant filed a refund claim in respect of the service tax paid as of Goods Transport Operators Service on the ground that appellant are not liable to pay the service tax.

2. We find that this issue is covered by the following decision of the Tribunal in *Indore* { *revenue* }:

- (i) **J.K. Industries Ltd. vs. CCE, Indore** reported in 2006 (3) S.T.R. 14 (Tri. – Del.)
- (ii) **J.K. Industries Ltd. vs. CCE, Udaipur** reported in 2007 (7) S.T.R. 687 (Tri. – Del.)
- (iii) **Poddar Pigments Ltd. vs. CCE, Jaipur** reported in 2007 (7) S.T.R. 399 (Tri. – Del.)

3. In view of the above decision, we find no merit in the present appeal. Appeal is dismissed.

(Dictated and pronounced in open court)

(S.S. Kang)
Vice President

(Rakesh Kumar)
Member (Technical)

PK