-SM[BR]TELEGRAM : CEGCANAL
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CUSTOMS. EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
SINGLE MEMBER APPEAL BRANCH

Appeal No. E/1172/2006-SM[BR] Date 09/01/2008

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

To :
M/S DIAMOND CEMENTS
BIRLAPUR P.O. NARSINGARH DISTT DAMOH (MP)

M/S DIAMOND CEMENTS Appellant

Vs

CCE,BHOPAL Respondent

I am directed to transmit herewith a certified copy of Final order No. 20/2008-SM[BR] dated 12.12.2007 passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

~~Assistant Registrar~~
(SM Appeal Branch)

Copy to :

1. Respondent
   CCE,BHOPAL
   NA
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. 43, saket, New
7. M/s Centax Publictions (P) Ltd., 1512-E, Bhishm Pitamah
8. Excise & Customs cases, B-37, Sector -1, NOIDA - 201301
9. R.Venkatraman Constt. 44-B, S.Suncity, Ghaziabad -
10. Nidheshak publications, I.P.Estate, new Delhi
11. Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh,
12. Co, Law Institution
13. TAX INDIA, B-XI/8183,Vasant Kunj, New Delhi - 110070
14. Office Copy
15. Guard file

~~Assistant Registrar~~
(SM Appeal Branch)

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
COURT NO. II

Excise Appeal No. 1172 of 2006-SM

[Arising out of Order-in-Appeal No. 208/CE/BPL/2005 dated 29.12.05 passed by Commissioner of Central Excise (Appeals), Bhopal]

For approval and signature:

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

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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? :

No

Diamond Cements — Appellants

Vs.

Commissioner of Central Excise. Bhopal — Respondent

Appearance: Shri R.Ravindran , Advocate for the Appellant
Shri B.S. Suhag, DR for the Respondent

Date of decision : 12.12.2007

Final ORDER NO. 20/08-SM(BR)

Per S.S. Kang:

Heard both sides. The appellant filed this appeal against the impugned order whereby the credit was disallowed in respect of welding electrodes, oxygen gas, DA gas and prepared adhesives.

2. The welding electrodes and oxygen gas are used in maintenance of plant and machinery and this issue is now settled by the following two Larger Bench decisions in favour of Revenue:

1. Treveni Engineering & Industries Ltd. vs. CCE, Meerut [2005 (186) ELT 158 (Tri-LB)]
2. Jaypee Rewa Cement vs. CCE, Raipur [2003 (159) ELT 553 (Tri-LB)]

3. In view of the above decision, I find no infirmity in the impugned order whereby the credit in respect of welding electrodes and gases was denied.

4. In respect of prepared adhesives, which are used for maintenance of conveyor belts, the eligibility of prepared adhesive is also on the same footings as on welding electrodes which are also used for maintenance purpose only. In these circumstances, I do not find any infirmity in the impugned order whereby the credit was denied. The appeal is dismissed.

(Dictated in the open Court)

(S.S. Kang)
Vice President

Dt: 12.12.07
ss