

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/401 /2006-SM[BR]

Date 11/01/2008

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

To :
M/S ASSOCIATED CEMENT COS,LTD.
P.O.JAMUL CEMENT WORKS DIST.DURG (CG)

M/S ASSOCIATED CEMENT COS,LTD.

C.C.E. RAIPUR

Appellant
Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No. 49/2008-SM[BR] dated 11-12-2007
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944


Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent

C.C.E. RAIPUR

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

2. Adv. / Consult SHRI. ALKA ARORA ADV.
D.B.DESA& ASSOCIATES
A-18 C.R. PARK NEW DELHI

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 Publications (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 & SERVICE TAX
APPELLATE TRIBUNAL**
West Block No. 2, R.K. Puram, New Delhi – 110 066.
Principal Bench, New Delhi

COURT NO. III

Excise Appeal No. 401 of 2006 – SM (BR)

[Arising out of the Order-in-Appeal No. 56/RPR-II/2005 dated 14/09/2005 passed by The Commissioner (Appeals) of Central Excise & Customs, Raipur.]

For Approval and signature :

Hon'ble Mr. P.K. Das, Member (Judicial)

- | | | | |
|----|--|---|----|
| 1. | Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982? | : | M. |
| 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 Associated Cement Cos. Ltd.

Appellant

Versus

CCE, Raipur (C.G.)

Respondent

Appearance

Ms. Alka Arora, C.A. – for the appellant.

Shri S.L. Meena, Authorized Representative (SDR) – for the Respondent.

CORAM : Hon'ble Shri P.K. Das, Member (Judicial)

DATE OF HEARING : 11/12/2007.

Final Order No. 49/08-5M(BR) Dated : 11/12/07

Per. P.K. Das :-

Heard both sides and perused the records.

2. The appellants filed this appeal against denial of credit on tyres used in dumper and spares of excavator. The learned counsel on behalf of the appellant submits that the Hon'ble Supreme Court in the case of **Vikram Cement vs. CCE, Indore** reported in **2006 (194) E.L.T. 3 (S.C.)** and the Tribunal order in the case of **Birla Corporation Ltd. Vs. CCE, Raipur** reported in **2003 (160) E.L.T. 268 (Tri. – Del.)** allowed credit on these items. She further submits that the ^(Appellate) Commissioner had not given any finding in the impugned order on these issues. Therefore, the denial of credit on tyres used in dumper and spares of excavator is set aside and the matter is remanded back to the Commissioner (Appeals) to decide afresh after considering the submission of the

appellants and in the light of the decisions stated above. The appeal is allowed by way of remand.

(Dictated and pronounced in open court)

(P.K. Das)
Member (Judicial)

PK