

**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/1151/2006-SM[BR]

Date 23/01/2008

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

To :  
M/S SHRE CEMENT LTD.  
BANGUR NAGAR, BEAWAR, (RAJ)

M/S SHRE CEMENT LTD.


CCE, JAIPUR

Appellant

Vs

Respondent

I am directed to transmit herewith a certified copy of Final order No.122/2008-SM[BR] dated 7.1.2008  
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944

  
Assistant Registrar  
(SM Appeal Branch)

**Copy to :**

1. Respondent

CCE, JAIPUR

NEW C.R.BUILDING, STATUE CIRCLE, C  
SCHEME, JAIPUR (RAJ)

2. Adv. / Consult SHRI, ABHISHEK RAO ADV.

PLAZA CINEMA BUILDING, CONNAUGHT CIRCUS 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 AND SERVICE TAX APPELLATE  
TRIBUNAL, R.K. PURAM, W.B. NO.2, PRINCIPAL BENCH  
NEW DELHI, COURT NO. III**

**Excise Appeal No.1151 of 2006-SM (BR)**

[Arising out of order in appeal No.30(HKS)CE/JPR-II/2006 dated 6.1.2006 passed by the Commissioner (Appeals), Central Excise, Jaipur (Rajasthan)]

**Date of Hearing/ Decision: 7.1.2008**

**For approval and signature:**

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

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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? :
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M/s. Shree Cement Ltd.

Appellants  
[Rep. by Mr. Abhishek Rao, Advocate]

Vs.

CCE, Jaipur

Respondent  
[Rep. by Mr. S. Gautam, Authorized Representative (DR)]

**CORAM: Mr. P.K. Das, Member (Judicial)**

Small ORDER NO.....122/08-S M (P.K.) /Dated:7.1.2008

Per P.K. Das:

Heard both sides and perused the records.

2. The appellant filed this appeal against denial of credit on Linear Plates, Blow Bars, Jointing Sheets and Resistance Plate. It is seen that the credit was denied on Linear Plates and Blow Bars on the ground that these goods have been used in the mines. The Commissioner (Appeals) denied credit following the decision of the Hon'ble Supreme Court in the case of Jaypee Rewa Cement reported in 2004 (133) ELT 3 (SC). I find that the Hon'ble Supreme Court in the case of Vikram Cement Vs. Commissioner of Central Excise reported in 2006 (194) EL T 3 (SC) = 2006 (197) ELT 145 (SC) held that the capital goods used in mines are eligible for Cenvat credit, if the mines are captive mines so that they constitute one integrated unit together with the concerned cement factory. It has been held that explosives, lubricating oil ,etc. used in the mines entitled to Cenvat credit. In view of that it is required to examine as to whether these items were used as capital goods in captive mines.

3. Regarding denial of credit on Steam Jointing Sheet and Resistance Plates, it is seen that the authorities below had not discussed use of these items and the case laws cited by the Id. Advocate.

- 4. In view of the above, the impugned order is set aside and the matter is remanded back to the adjudicating authority to examine the admissibility of the credit on these items in the light of the decision of the Hon'ble Supreme Court and the use of these items. Needless to say that the adjudication authority shall provide proper opportunity of hearing before deciding the appeal. The appeal is allowed by way of remand.

(Order dictated & pronounced in open court on 7.1.2008).

( P.K. Das )  
Member (Judicial)

Ckp.