

**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/1220/2006-SM[BR]

Date 21/02/2008

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

To :  
CCE,BHOPAL  
4/8,ADNUB AREA,ARERA HILLS,HOSHABNGABAD  
ROAD,BHOPAL

CCE,BHOPAL

M/S KAKDA ROLLING MILLS,

Appellant  
Vs  
Respondent

I am directed to transmit herewith a certified copy of Final order No. 329 /2008 –SM [BR] dated 28.1.2008  
passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar  
(SM Appeal Branch)

**Copy to :**

1. Respondent

M/S KAKDA ROLLING MILLS,  
BHOPAL [MP]

2. Adv. / Consult SHRI. P. C. KASHIV ADV.

E-3/49 KAMDAR MATKET STOP NO.10, BHOPAL

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)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI  
COURT NO.II

E/Appeal No.1220 /2006-SM

(Arising out of order in appeal No.33/CE/BPL/06 dated 23.1.2006  
passed by the Commissioner of Central Excise (Appeals), Bhopal)

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?

M.

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CCE, Bhopal

Appellant  
(Rep. by Shri A.K. Rastogi, DR)

Vs

M/s Kakda Rolling Mills

Respondent  
(Rep. by Shri P.C. Kashiv, Advocate)

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

Date of Hearing: 28.1.2008

Final Order No. ~~3/2006/50833~~ (B R)

Per P.K. Das:

The Revenue filed this appeal against the Order in Appeal dated 23.1.2006 whereby it has been held that respondent's Furnace is of 'Batch' type on the basis of reports of Superintendent (Appeals) and Chartered

Engineer. The learned Counsel placed a copy Final Order No.755/07 dated 16.4.07 of the Tribunal whereby the Tribunal directed the Commissioner to examine the Furnace installed in the respondents factory is of 'pusher type' or 'batch type'.

2. I find that the Adjudicating Authority passed the Order following the Order dated 17.3.2005 of Commissioner of Central Excise wherein it has been held that Furnace is 'Pusher type' and the said order was set aside by the Tribunal by Final order dated 16.4.2007 by way of remand to the Commissioner of Central Excise. Therefore, the impugned orders cannot be sustained and set aside. The matter is remanded back to the Adjudicating Authority to decide afresh in terms of the Tribunal's order dated 16.4.07 and after the denovo order of Commissioner of Central Excise. The appeal is allowed by way of remand.

(Order dictated and pronounced in the open Court).

MPS\*

(P.K. Das)  
Member(Judicial)