

**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/2195/2006-SM[BR]

Date 20/03/2008

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

To :  
THE COMMISSIONER OF CENTRAL EXCISE RAIPUR  
(C.G.)  
HQRS, TIKRAPARA, DHAMTARI ROAD, RAIPUR  
(C.G)

THE COMMISSIONER OF CENTRAL EXCISE RAIPUR  
(C.G.)

Appellant

M/S LAFARGE INDIA PVT LTD

Vs  
Respondent

I am directed to transmit herewith a certified copy of Final order No. 451 /2008-SM[BR] dated 4.2.2008

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 LAFARGE INDIA PVT LTD  
SONADIH CEMENT PLANT, BALODA BAZAR,  
RAIPUR (C.G.)

2. Adv. / Consult SHRI. R. K. HASIJZA ADV.  
B-6/10, SAFDERJUNG 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 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.2195 of 2006-SM (BR)**

[Arising out of order in appeal no.65/RPR-I/2006 dated 29.3.2006 passed by the  
Commissioner of Central Excise (Appeals-I), Raipur (C.G.)]

**Date of Hearing/ Decision:4.2.2008**

**For approval and signature:**

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

1. Whether Press Reporters may be allowed to see 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?	:

CCE, Raipur

...Appellants  
[Rep. by Shri A.K. Rastogi, DR.]

Vs.

M/s. Lafarge India Pvt. Ltd.

Respondent  
[Rep. by Mr.R.K. Hasija, Advocate]

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

*Final* Order No. *451/06 SM/BR* /Dated:4.2.2008

**Per P.K. Das:**

Revenue filed this appeal against the order of the Commissioner (Appeals), whereby denial of credit on Welding Electrodes, D.A. Gas and Oxygen Gas was set aside.

2. After hearing both the sides and on perusal of the records, I find that the adjudicating authority disallowed the credit on Welding Electrodes, D.A. Gas and Oxygen Gas and appropriated the amount as deposited by the respondent and also directed the payment of interest. The respondent filed the appeal before the Commissioner (Appeals) whereby the adjudication order was set aside. Hence, the Revenue filed this appeal. I find that the Larger Bench of the Tribunal in the case of Jaypee Rewa Plant Vs. CCE, Raipur reported in 2003 (159) ELT 553 (T-LB) held that these items are not eligible for credit. The Tribunal in the case of J.K. Cement Vs. reported in 2007 (211) ELT 235 (Tribunal-Delhi) after considering the decision of the Hon'ble Rajasthan High Court held that these items are not eligible for credit. The Id. Advocate on behalf of the respondent reiterates the findings of the Commissioner (Appeals). I find that the issue is decided in favour of the Revenue by the Larger Bench of the Tribunal and, therefore, the order of the Commissioner (Appeals) is not sustainable. Accordingly, the order of the Commissioner (Appeals) is set aside and the order of the adjudicating authority is restored. The appeal by the Revenue is allowed.

Order dictated & pronounced in open court on 4.2.2008.

( P.K. Das )  
Member (Judicial)

ckp.