

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/852 /2006-SM[BR]

Date 02/06/2008

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

To :
C.C.E. JAIPUR II
N.C.R.BUILDING, STATUE CIRCLE, "C" SCHEME,
JAIPUR 302005.
C.C.E. JAIPUR II

Appellant

Vs
Respondent

M/S HINDUSTAN ZINC LTD.

I am directed to transmit herewith a certified copy of Final order No. 840 /2008 -SM[BR] Dated 21.5.2008
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 HINDUSTAN ZINC LTD.

DEBARI, UDAIPUR (RAJASTHAN)

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. 46, Saket, New Delhi 110017

7. M/s Centax Publications (P) Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi -

8. Excise & Customs cases, B-37, Sector -1, NOIDA - 201301 Gautam Budh Nagar, (U.P.)

9. Raghuraman's 44-B, Regal Flat, Shipra Suncity, Indirapuram - 201010, Ghaziabad, DT, U.P.

10. Nidheshak publications, I.P. Estate, new Delhi

11. Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh, New Delhi - 110026

12. Commercial Laws of India Pvt Ltd Post Bag No. 1033, No.70 (Old No. 88), Thyagaraya Road, T. Nagar, Chennai 60017

13. Taxindiaonline.com Pvt.Ltd, 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, NEW DELHI
PRINCIPAL BENCH, COURT NO. II**

Excise Appeal No. 852 of 2006-SM

[Arising out of Order-in-Appeal No. 954(HKS)CE/JPR-II/ 2005 dated 23.12.2005 passed by Commissioner of Customs & Central Excise (Appeals), Jaipur]

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 : *Yes*
the Order for publication as per Rule 27 of the
CESTAT (Procedure) Rules, 1982?
 2. Whether it should be released under Rule 27 : *Yes*
of the CESTAT (Procedure) Rules, 1982 for
publication in any authoritative report or not?
 3. Whether Their Lordships wish to see the fair : *Yes*
copy of the Order?
 4. Whether Order is to be circulated to the : *Yes*
Departmental authorities?
-

Commissioner of Central Excise
Jaipur II

Appellant

Vs.

M/s. Hindustan Zinc Ltd.

Respondent

Appearance:

Mr. B.S.Suhag, DR for the Appellant

Mr. V.N. Shukla, Advocate for the Respondent

Date of decision : 21.5.2008

Final ORDER NO. 840/08-SM(BR)

Per S.S.Kang:

Heard both sides. Revenue filed this appeal against the impugned order passed by Commissioner (Appeals) whereby the Commissioner (Appeals) rejected the appeal filed by the Revenue.

2. Show cause notice was issued to the respondents demanding an amount equal to 8% of the value of exempted sulphuric acid cleared in terms of Rule 57 CC of the Central Excise Rules. The adjudicating authority dropped the proceedings. Revenue filed the appeal and Commissioner (Appeals) dismissed the appeal. On the same issue in the case of respondents the Tribunal vide Final Order No. 538-545/2007 dated 31.10.07, after relying upon the decision of the Hon'ble Rajasthan High Court held in favour of the respondents and dismissed the appeal filed by the Revenue.

3. The only contention of the Revenue is that against the decision of Hon'ble Rajasthan High Court, the Revenue had filed the appeal which is pending in Hon'ble Supreme Court. Revenue had not produced any order staying the operation of the decision of Hon'ble Rajasthan High Court. Therefore, in view of the earlier decision, the appeal filed by the Revenue is dismissed.

(Pronounced in the open Court)

(S.S. Kang)
Vice President