

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/1534/2006-1535/2006-SM[BR]

Date 09/06/2008

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 J.K.CEMENT WORKS

I am directed to transmit herewith a certified copy of Final order No. 885 -886 /2008 -SM[BR] dated 2.4.2008

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 J.K.CEMENT WORKS [2]M/S J.K. CEMENT WORKS
NIMBAHERA CHITTORGARH(RAJ) MANGROL, CHITTORGARH [RAJASTHAN]

2. Adv. / Consult SHRI BIPIN GARG ADV.

B-1/1289-A, VASANT KUNJ NEW DELHI-70

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, R.K. PURAM, W.B. NO.2, PRINCIPAL BENCH
NEW DELHI, COURT NO. III

Excise Appeals Nos.1534-35 of 2006 -SM (BR)

[Arising out of Order-in-Appeal No.154-155(HKS)CE/JPR-II/2006 dated
8.3.2006 passed by the Commissioner (Appeals-II), Central Excise, Jaipur]

Date of Hearing/ Decision:2.4.2008

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. | : | } MW. |
| 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, Jaipur-II

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

Vs.

M/s. J.K. Cement Works

....Respondent
[Rep. by Shri Atul Gupta, Co.Secretary]

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

fine Order No. 885-886/08-SM(BR) Dated:2.4.2008.

Per P.K. Das:

Heard both sides and perused the records.

2. Revenue filed this appeal against the order of the Commissioner (Appeals), whereby the denial of credit on Oxygen and Acetylene gases was set aside. I find that the Larger Bench of the Tribunal in the case of Jaypee Rewa Plant Vs. CCE reported in 2003 (159) ELT 553 (T-LB) held that Oxygen and Acetylene Gases are not eligible for Credit. I find force in the submission of the Id. Counsel for the Respondent that the denial of Credit is decided by the Larger Bench of the Tribunal and, therefore, the Commissioner (Appeals) rightly set aside the penalty.

3. In view of the above, the order of the Commissioner (Appeals) is modified in as much as the denial of Credit on Oxygen and Acetylene gases is upheld and penalty is set aside and the appeals are otherwise rejected. The appeals are disposed of in the above terms.

Order dictated & pronounced in open court on 2.4.2008.

(P.K.Das)
Member (Judicial)

Ckp.