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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/3153/2006-SM[BR] Date 12/06/2008

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

To :
C.C.E.JAIPUR II

NCRB,STATUE CIRCLE,C-SCHEME,JAIPUR.

C.C.E.JAIPUR II Appellant

Vs

M/S HINDUSTAN ZINC LTD Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 910 /2008 –SM[BR] dated 30.5.2008

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
UDAIPUR(RAJ)
2. Adv. / ConsultSHRI R.K.HASHIJA ADV.
N /V.:----------------
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 Publictions (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 NEW DELHI

Excise Appeal No.3153 of 2006 –SM (BR)

[Arising out of Order-in-Appeal No.370-371(HKS)CE/JPR-II/2006 dated 27.06.2006 passed by the Commissioner of Central Excise (Appeals), Jaipur]

Date of Hearing/ Decision:30.5.2008

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? :

Commissioner of Central Excise, Jaipur ...Appellants
[Rep. by Shri S. Gautam, DR]

Vs.

M/s. Hindustan Zinc Ltd. ....Respondent
[Rep. by Shri R.K. Hashija, Advocate]

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

Final Order No. 910/08-SM Dated:30.5.2008

Per P.K. Das:

Revenue filed this appeal against the Order of the Commissioner (Appeals), whereby Adjudication Order was set aside.

2. After hearing both the sides and on perusal of the records, it is seen that the Respondent availed Cenvat Credit on M.S. Plates, Sheets of Iron and Steel items used for repair and maintenance, of machinery in the factory. The Adjudicating Authority denied the Credit on the ground that these items are not covered within the definition of capital goods. The Commissioner (Appeals) allowed the Credit on these items. The Hon'ble Rajasthan High Court in the case of Union of India Vs. Hindustan Zinc Ltd. reported in 2007 (214) ELT 510 (Rajasthan) held that M.S./S.S. Plates used in workshop meant for repair and maintenance of machinery, which were used for manufacture of final products, are eligible for Cenvat Credit. It seen that the decision of the Hon'ble Rajasthan High Court was upheld by the Hon'ble Supreme Court in the case of Union of India Vs. Hindustan Zinc Ltd. as reported in 2007 (214) ELT A115 (SC).

3. In view of the decision of the Hon'ble High Court, I do not find any merit in the appeal filed by the Revenue. Accordingly, the appeal filed by the Revenue is rejected.

Order dictated & pronounced in open court on 30.5.2008.

(P.K. Das)
Member (Judicial)

Ckp.