

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/3982/2006-SM[BR]

Date 20/06/2008

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

To :
C.C.E.BHOPAL
48,ADMINISTRATIVE AREA, AREA HILLS,
HOSHANGABAD ROAD, BHOPAL.
C.C.E.BHOPAL

Appellant

Vs
Respondent

M/S DIAMOND CEMENT

I am directed to transmit herewith a certified copy of **Final order No. 980 /2008 –SM[BR]** dated 3.6.2008
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 DIAMOND CEMENT

IMLAI/NARSINGHGARH, DISTT- DAMOH(M.P.)

2. Adv. / Consult

NONE;-----

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 NEW DELHI**

Excise Appeal No.3982 of 2006-SM (BR)

[Arising out of Order-in-Appeal No.203-CE/BPL/2006 dated 29.09.2006
passed by the Commissioner of Central Excise (Appeals), Bhopal (U.P.)]

Date of Hearing/ Decision:3.6.2008

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?	:	2.
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, Bhopal	...Appellants	
	[Rep. by Shri S.L. Meena, DR]	

Vs.

M/s. Diamond Cement

....Respondents
[Rep. by None]

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

Final Order No. *980/08-SM(CBR)* Dated: 3.6.2008

Per P.K. Das:

Heard the ld. DR on behalf of the Revenue.

2. None appeared on behalf of the Respondent in spite of issue of notice. Revenue filed this appeal against the order of the Commissioner (Appeals), whereby denial of credit on Welding Electrodes and imposition of penalty on the Respondent were set aside.

3. Ld. DR referred the decision of the Larger Bench of the Tribunal in the case of Jaypee Rewa Plant Vs. CCE, Jaipur reported in 2003 (159) ELT 553 (Tribunal-Larger Bench). He further submits that the Tribunal in the case of J.K. Cement Vs. CCE reported in 2007 (211) ELT 235, after considering the decision of the Hon'ble High Court of Rajasthan, disallowed the credit on Welding Electrodes.

4. In view of the decision of the Larger Bench of the Tribunal, denial of credit on Welding Electrodes by the Adjudicating Authority is upheld. I find that the issue has been settled by the Larger Bench of the Tribunal. So, the penalty is not warranted. Accordingly, the penalty is set aside. The appeal filed by the Revenue is disposed of in the above terms.

Order dictated & pronounced in open court on 3.6.2008.

(P.K. Das)
Member (Judicial)

Ckp.