

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/3577/2006-SM[BR]

Date 31/07/2008

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

To :
HINDUSTAN ZINC LIMITED
YASHAD BHAWAN, NEAR SWAROOP SAGAR,
UDAIPUR(RAJ)
313001

HINDUSTAN ZINC LIMITED

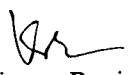
C.C.E.JAIPUR II

Appellant

Vs

Respondent

I am directed to transmit herewith a certified copy of **Final order No. 1111 /2008 –SM[BR]** dated 16.7.2008
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944


Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent

C.C.E.JAIPUR II

NCRB, STATUE CIRCLE, C-SCHEME, JAIPUR.

2. Adv. / Consult

MR. RAVI RAGHAVAN ADV.

B-6 /10 SAFDARJUNNG ENCLAVE NEW DELHI 29

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

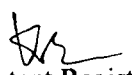
11. Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh, New Delhi - 110026

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**

Appeal No.3577 of 2006-SM (BR)

[Arising out of common Order-in-Appeal No.460(HKS)CE/JPR-II/2006 dated 17.08.2006 passed by the Commissioner of Central Excise, Jaipur-II]

Date of Hearing/ Decision:16.07.2008

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 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? | : | |
-

M/s. Hindustan Zinc Limited

...Appellants

[Rep. by Shri Ravi Raghavan, Advocate]

Vs.

CCE, Jaipur-II

...Respondent

[Rep. by Shri B.S. Suhag, DR]

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

Final Order No. 2111 / 2008-SM(BR) Dated: 16.07.2008

Per P.K. Das:

Heard both sides and perused the records.

2. Ld. Advocate resisted the demand of duty and penalty on the ground of limitation. He submits that the Credit was denied on Welding Electrodes for the period July, 2003 to March, 2004 by show cause notice dated 5.9.2005. It is seen that there is conflicting decisions of the Tribunal on denial of credit on Welding Electrodes. The Larger Bench of the Tribunal in the case of Jaypee Rewa Cement Vs. CCE – 2003 (159) ELT 553 (Tribunal-LB) decided the issue in favour of the Revenue. Ld. Advocate also submitted that in the case of Lloyds Metals Engg. Vs. CCE reported in 2008 (86) RLT 124, Larger Bench of the Tribunal allowed the credit on Welding Electrodes.

3. The Commissioner (Appeals) observed that the Department is not in a position to ascertain as to on which inputs/capital goods Cenvat Credit was taken. There is no material placed by the Revenue that the Appellants suppressed the facts with intent to evade payment of duty and, therefore, extended period of limitation is not applicable. Accordingly, the appeal is allowed on limitation.

Order dictated & pronounced in open court on 16.7.2008.

(P.K. Das)
Member (Judicial)

Ckp.