

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/1993/2006-SM[BR]

Date 29/08/2008

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

To :
SHREE CEMENT LIMITED
BANGUR NAGAR, BEAWAR, RAJASTHAN
SHREE CEMENT LIMITED

Appellant

Vs
Respondent

THE COMMISSIONER OF CENTRAL EXCISE JAIPUR
(RAJASTH)

I am directed to transmit herewith a certified copy of Final order No. 1206 /2008 -SM[BR] dated 7.8.2008

passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944


Assistant Registrar

(SM Appeal Branch)

Copy to :

1. Respondent

THE COMMISSIONER OF CENTRAL EXCISE JAIPUR (RAJASTH)
NEW C.R.BUILDING, STATUE CIRCLE, C-SCHEME, JAIPUR-II (RAJASTHAN)

2. Adv. / Consult

MR.K.K ANAND

A-5,BASEMENT,LAJPAT NAGAR-III NEW DELHI-24

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. Easy Service Tax Online Dot Com Pvt. Ltd. 407A, Iscon Mall, Above Star India Bazar, Satellite Road, Ahmedabad - 15

15. Office Copy

16. Guard file


Assistant Registrar
(SM Appeal Branch)

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE
TRIBUNAL, NEW DELHI
PRINCIPAL BENCH NEW DELHI**

Excise Appeals.1993 of 2006 –SM (BR)

[Arising out of Order-in-Appeal No.188(HKS)CE/JPR-II/2006 dated 28.02.2006 passed by the Commissioner of Central Excise (Appeals), Jaipur]

Date of Hearing/ Decision:7.8.2008

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? | : | |
-

M/s. Shree Cement Ltd.

...Appellants

[Rep. by Ms.Asmita Nayak, Advocate]

Vs.

CCE, Jaipur-II

....Respondents

[Rep. by Shri Sansar Chand, DR]

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

Final Order No..1.206/08-SM(BR) Dated:7.8.2008

Per P.K. Das:

The Appellant filed this appeal against denial of credit on cemigrind, enameled copper wire, circular saw blade, any – 21 yarn, Fysax, E Poxxy petty.

2. After hearing both the sides and on perusal of the records, the findings of the Commissioner (Appeals) is reproduced below:-

“5. As regards the admissibility of modvat credit on the items like cemigrind, enameled copper wire, circular saw blade, any – 21 yarn, Fysax, E Poxy petty, it is observed that neither these goods are covered under the definition of capital goods nor they qualify for the spare. Components and accessories to capital goods, as such I find that modvat credit of Rs.63069/- availed by the appellants on these items is not allowed to them.”

3. Ld. Advocate submits that the Commissioner (Appeals) had not taken into consideration the use of these materials, ~~on these items~~. He also placed several decisions of the Tribunal, wherein credit was allowed on these items. I find that the Commissioner (Appeals) has not discussed the use of these items and the case laws. Therefore, the impugned order in so far as the denial of credit on these items is set aside and the matter is remanded back to the Commissioner (Appeals) to decide afresh ^{considering} after the ~~decision on the~~ use of these items and the case laws of the Tribunal. The matter is allowed by way of remand.

Order dictated & pronounced in open court on 7.8.2008.

(P.K. Das)
Member (Judicial)

Ckp.