

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/596 , 598 TO 601 /2007 -SM[BR]

Date 13/05/2008

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

NDUSTAN ZINC LTD. [2-3]M/S ADITYA CEMENT [A UNIT OF GRASIM INDUS.
YASHAD BHAWAN, NEAR SWAROOP SAGAR, LTD.] SAMBHUPURA DISTT; CHITTORGARH [RAJ.]
UDAIPUR-313001(RAJ.)

HINDUSTAN ZINC LTD.

[4-5]M/S J.K. CEMENT WROKS
KAILASH NAGAR NIMBAHERA
DISTT;CHITTORGARH[RAJ]

Appellant

Vs
Respondent

C.C.E, JAIPUR-II

I am directed to transmit herewith a certified copy of Final order No. 748- 752 /2008 -SM[BR] dated 9.4.2008

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


Assistant Registrar

(SM Appeal Branch)

Copy to :

1. Respondent

C.C.E, JAIPUR-II

N.C.R.BUILDING, 'C' SCHEME, JAIPUR-302005

2. Adv. / Consult SHRI. RAVI RAGVAN ADV.

[2]BIPIN GARG ADV.

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

B-6/10 SAFDARJUNG 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**

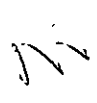
Excise Appeals No.596 to 598-601 of 2007-SM (BR)

[Arising out of Order-in-Appeal No.705(HKS)CE/JPR-II/2006 dated 22.12.2006 passed by the Commissioner of Central Excise (Appeals), Jaipur]

Date of Hearing/ Decision:9.4.2008

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 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. J.K. Cement Wroks ...Appellants
 [Rep. by Shri Ravi Raghavan, Advocate & Shri Atul Gupta, Co. Secretary]

Vs.

CCE, Jaipur ...Respondent
[Rep. by Shri B.S. Suhag, DR]

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

Final Order No. 748 to 752/08-SM(BR) /Dated:9.4.2008

Per P.K. Das:

Common issue is involved in these appeals and, therefore, all the appeals are taken up together for disposal. The Appellants filed these

appeals against denial of credit on Welding Electrodes and Jointing Sheets.

2. After hearing both the sides and on perusal of the records, I find that the Larger Bench of the Tribunal in the case of Jaypee Rewa Plant Vs. CCE reported in 2003 (159) ELT 553 (LB-Tribunal) disallowed the credit on Welding Electrodes.

3. Ld. Counsel relied upon the decision of the Hon'ble Rajasthan High Court in the case of Shree Neer Cement, wherein the appeal filed by the Revenue was rejected. It is seen that the Tribunal in the case of J.K. Cement Vs. CCE, Jaipur reported in 2007 (211) ELT 235 (Tribunal-Jaipur), after considering the decision of the Hon'ble Rajasthan High Court, disallowed the credit on Welding Electrodes. So, the denial of credit on Welding Electrodes is justified. It is seen from the order of the Commissioner (Appeals) that Jointing Sheets were used for sealing the leakage at joints. The Tribunal in the case of KCP Sugar and Industries Ltd. Vs. CCE, Guntur reported in 2004 (178) ELT 275 (T-Bangalore) held that Asbestos Packing/compressed asbestos fibres used for preventing leakage in pipes which connected with flanges to transfer cane juice from one station to another in the processing plant in sugar mill are eligible for Cenvat credit.

4. In view of the above, the denial of credit on Welding Electrodes is upheld and denial of Credit on Jointing Sheets is set aside. As the issue involved denial of credit on Welding Electrodes was settled by the

● Larger Bench of the Tribunal, I do not find any reason for imposition of penalty. Accordingly, penalty is set aside. All the appeals are disposed of in the above terms.

Order dictated & pronounced in open court on 9.4.2008.

(P.K. Das)
Member (Judicial)

Ckp.