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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/2757/2006-SM[BR] Date 19/05/2008

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

To :
C.C.E. RAIPUR
TOKRAPARA, RAIPUR (C.G.)

C.C.E. RAIPUR Appellant
Vs
M/S ACC LTD. Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 779 /2008 –SM[BR] dated 2.5.2008 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 ACC LTD.
   JAMUL, BHILAI, DISTT. DURG, (C.G.)
2. Adv. / Consult
   NONE;-----------

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, R.K. PURAM, W.B. NO.2, PRINCIPAL BENCH NEW DELHI, COURT NO. III

Excise Appeals No.2757 of 2006-SM (BR)

[Arising out of Order-in-Appeal No.30/RPR-II/2006 dated 29.3.2004 of the Commissioner of Central Excise (Appeals), Raipur]

Date of Hearing:2.5.2008

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? :

NO

CCE, Raipur ...Appellants
[Rep. by Shri S.L. Meena, SDR]

Vs.

M/s. ACC Ltd. ...Respondent
[Rep. by None.]

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

Final Order No. 779/08-SM(BR)/Dated:2.5.08

Per P.K. Das:

Heard the ld. DR on behalf of the Revenue. 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 Credit on JST Joists, Angles and Channels of Iron and Steel Products were allowed.

2. On perusal of the order of the Commissioner (Appeals), it is seen that these items were used as parts, which in turn, were used in the manufacture of worn out component parts of the machinery. It is revealed from the Adjudication Order that the Respondent submitted certificate issued by the Chartered Accountant, which specifically mentioned that the said items have been used for maintaining and repairing of crusher, kiln pre-heater and cement mill. The Adjudicating Authority denied the Credit on the ground that these goods would not get covered by the definition of capital goods under Rule 2(b) of the Cenvat Credit Rules as these cannot be construed to be components, spares or accessories of the goods falling under various chapters. The Hon'ble Rajasthan High Court in the case of Hindustan Zinc Ltd. Vs. CCE, Jaipur reported in 2007 (214) ELT 510 (Rajasthan) held that Iron & Steel products used in the workshop for manufacturing parts, for the purpose of using in the machinery, are eligible for Credit.

3. In view of the decision of the Hon'ble Rajashtan High Court, I do not find any reason to interfere the order of the Commissioner (Appeals). Accordingly, the appeal filed by the Revenue is rejected.

Order dictated & pronounced in open court on 2.5.2008.

(P.K. Das)
Member (Judicial)

Ckp.