

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/1695/2007 – SM[BR]

Date 23/03/2009

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

To :
HINDUSTAN ZINC LTD.

YASHAD BHAWAN, NEAR SWAROOP SAGAR,
UDAIPUR 313001 (RAJ.)
HINDUSTAN ZINC LTD.

Appellant

Vs
Respondent

C.C.E. JAIPUR II

I am directed to transmit herewith a certified copy of **Final order No. 250 / 2009 –SM[BR]** dated 16.3.2009

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, STATUE CIRCLE, "C" SCHEME, JAIPUR 302005.

2. Adv. / Consult SHRI RAVI RAGHVAN ADV.

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 - 3

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 Puniabi Bagh, New Delhi - 110026

12 Commercial Laws of India Pvt Ltd Post Bag No. 1033, No.70(Old No. 88), Thvagarava Road, T. Nagar, Chennai

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-1

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16 Guard file


Assistant Registrar
(SM Appeal Branch)

**IN THE CUSTOMS, EXCISE & SERVICE
TAX APPELLATE TRIBUNAL,
WEST BLOCK NO. 2, R.K. PURAM,
NEW DELHI**

COURT – III

EXCISE APPEAL NO. 1695 OF 2007-SM

[Arising out of Order-in-Appeal No. 163(HKS)CE/JPR-II/2007 dated 14.03.2007 passed by the Commissioner (Appeals-II), Central Excise, Jaipur]

For approval and signature:

Hon'ble Mr. P.K. Das, Member (Judicial)

1.	Whether Press Reporters may be allowed to see the order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	
2.	Whether it would 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

Appellant

Vs.

CCE, Jaipur-II

Respondent

Appearance:

Shri Ravi Raghavan, Advocate for the appellant;
Shri S.K. Bakshi, D.R. for the Revenue;

Coram:

Hon'ble Mr. P.K. Das, Member (Judicial),

Date of hearing/decision: 16th March, 2009

FINAL ORDER NO. 256/09-sm(BR) dated 16.3.09

Per P.K. Das:

Heard both sides and perused the records.

2. After hearing both sides and on perusal of the records, I find that the credit was denied on LSHS Oil and Lubricants used in generation of electricity which was used in residential colony, hospital and bank as well as in the manufacture of excisable goods during the period from April, 2005 to June, 2005. Learned Advocate fairly submits that there are various decisions in favour of the Revenue as well as assessee. He submits that ultimately the Hon'ble Supreme Court in the case of Collector of Central Excise vs. Solaris Chemtech Limited, reported in 2007 (214) ELT 481 (SC) held that for inputs used for generation of electricity which is consumed by residential colony of the factory workers, school, etc. credit is not admissible.

3. In view of the decision of the Hon'ble Supreme Court in the case of Solaris Chemtech Ltd. (supra) demand of duty is upheld. It is seen that there was a dispute of admissibility of credit on the inputs used in generation of electricity which was consumed in the residential colony of factory workers, school, etc. and, therefore, penalty is not warranted.

Accordingly, demand of duty with interest is upheld but penalty is set aside. Appeal is disposed of in above terms.

(Dictated & pronounced in the Open Court.)

(P.Ķ. DAS)
MEMBER (JUDICIAL)

RK