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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/3736/2006 – SM[BR] Date 25/05/2009

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

To :
M/S JINDAL STEEL & POWER LTD
P.B. NO. 16, KHARSIA ROAD, RAIGARH(CG)
496001

M/S JINDAL STEEL & POWER LTD Appellant
Vs
C.C.E.RAIPUR Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 471 /2009- **SM[BR]** dated 12.5.2009 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.RAIPUR
   DHAMTARI ROAD, TIKRAPARA, RAIPUR.
2. Adv. / Consult SHRI L.P. ASTHANA ADV.
   N/V;---------------------------

3 S.D.R
~~4 J.C.D.R.~~
5 Bar association. CESTAT. New Delhi
6 Director Publications. Customs. Excise. I.P. Estate. New Delhi
7 M/s Centax Publictions Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi - 3
8 Commercial Laws of India Pvt Ltd. Post Bag No. 1033, No.2(Old No. 36), Vaithyaram Street, T. Nagar,Chennai -17
9 Raghuraman's 44-B. Regal Flat.Shipra Suncity. Indirapuram - 201010.Ghaziabad. DT. U.P.
10 M/s Manupatra Information Solutions Pvt Ltd. Excise & Customs Cases B-37, Sector - 1, Noida - 201301, Gautam Budh Nagar, (UP)
11 M/s. Deeparchie Publications. M-93. Marg. 46. Saket. New Delhi 110017
12 Taxindiaonline.com Pvt.Ltd. B-XI/8183.Vasant Kunj. New Delhi - 110070
13 Taxmann Allied Service Pvt Ltd., 21/35. West Punjabi Bagh. New Delhi - 110026
14 Easy Service Tax Online Dot Com Pvt.Ltd.407A.Iscon Mall.Above Star India Bazar.Satellite Road.Ahmedabad-15
15 LAWCRUX Advisors Pvt Ltd. LAW House.1-8.Sector - 10. Faridabad 121003 (Haryana)
16 Office Copy
17 Guard file

Assistant Registrar
(SM Appeal Branch)

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

Excise Appeal No.3736 of 2006-SM

[Arising out of Order-in-Appeal No.160/RPR-I/2006 dated 31.08.2006 passed by the Commissioner of Central Excise, Raipur

Date of Hearing/ Decision:12.05.2009

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? : NO
3. Whether Their Lordships wish to see the fair copy of the Order? :
4. Whether Order is to be circulated to the Departmental authorities? : Yes

M/s.Jindal Steel & Power Ltd. ...Appellants
[Rep. by Shri L.P. Asthana, Advocate]

Vs.

CCE, Raipur ...Respondent
[Rep. by Shri R.K. Verma, DR]

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

Final Order No..471/09...../Dated:12.05.2009

Per P.K. Das:

After hearing both the sides and on perusal of the records, it is seen that the appellants filed refund claim of Rs.96,941/-, which was rejected by the Original Authority on the ground of unjust enrichment and upheld by the Commissioner (Appeals). It appears from the Adjudication Order that the appellants filed refund claim in respect of duty paid on "Slag Granulated (MBF)" cleared for their own consumption. The Original Authority observed that the appellants submitted only invoices and EA-1 Return.

2. Ld. Advocate submits that the invoices were issued for their own accountal purposes. He further submits that the appellants used the slags in making bricks, which, in turn, have been used in various construction works within their factory. They did not sell the granulated slags outside and, therefore, there is no scope to pass the incidence of duty to any other person.

3. I find that this issue was not before the Original Authority. In my view, this issue requires to be examined to meet the ends of justice. Accordingly, the impugned order is set aside and the matter is remanded back to the Original Authority to examine the above contention. The appellant is directed to produce the evidences in support of their contention. Needless to say that the Original Authority shall give proper opportunity of hearing passing order. The appeal is allowed by way of remand.

Order dictated & pronounced in the open court on 12.05.2009.

(P.K. Das)
Member (Judicial)

Ckp.