

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/6054/2004 – SM[BR]

Date 08/09/2009

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

To :
M/S ADITYA CEMENT.
(A UNIT OF GRASIM)
SMBHUPURA DISTT,CHITTORGARH (RAJ)

M/S ADITYA CEMENT.
(A UNIT OF GRASIM)

Appellant

C.C.E.JAIPUR RAJASTHAN

Vs
Respondent

I am directed to transmit herewith a certified copy of **Final order No. 1129 / 2009 –SM[BR]** dated 26.8.2009

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 RAJASTHAN

NEW C.R.BUILDING,STATUE CIRCLE,C-SCHEME,JAIPUR 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 Director Publications. Customs, Excise. I.P. Estate. New Delhi

7 M/s Centax Publications 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 Kuni, 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 (Harvana)

16 Office Copy

17 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

CENTRAL EXCISE APPEAL NO. 6054 OF 2004-SM

[Arising out of Order-in-Appeal No. 590-598(RM)CE/JPR-II/2004 dated 22.09.2004 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?	Yes
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. Aditya Cement

Appellants

Vs.

CCE, Jaipur

Respondent

Appearance:

Ms. Asmita Nayak, Advocate for the assessee;
Shri I. Baig, SDR for the Revenue

Coram:

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

Date of hearing/decision: 26th August, 2009

FINAL ORDER NO. 1129 / 2009 SM (80) dated _____

Per P.K. Das:

Heard both sides and perused the records.

2. Original authority allowed the credit on the inputs namely, explosives, lubricants and oil used in mines. Revenue filed appeal before the Commissioner (Appeals) whereby adjudication order was set aside.
3. Learned Advocate submits that there is no physical separation in the mining area and plant area, the mining area is the extension of plant area. Learned D.R. reiterates the findings of the Commissioner (Appeals).
4. Hon'ble Supreme Court in the case of Vikram Cement vs. CCE, Indore, reported in 2006 (194) ELT 3 (SC) held that Cenvat credit on Explosives cannot be denied on the ground that they were not used as inputs within the factory and used in the mines for blasting. In view of the decision of the Hon'ble Supreme Court, impugned order is set aside and order of the original authority is restored. Appeal filed by the appellants is allowed.

(Dictated & pronounced in the Open Court.)

(P.K. DAS)
MEMBER (JUDICIAL)

RK