TELEGRAM : CEGCANAL
Website : www.cestat.gov.in

REGISTERED / AD
Email : delhi@cestat.gov.in

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/1646/2010 – SM[BR] E / ROA /7 / 2011 –SM[BR]** Date **08/08/2011**

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

To :
M/S SHREE CEMENT LIMITED,
BANGUR NAGAR, BEAWAR (RAJASTHAN)

M/S SHREE CEMENT LIMITED, Appellant
Vs
C.C.E. JAIPUR II Respondent

I am directed to transmit herewith a certified copy of **Final order No.456/2011-SM[BR]&S/432/11&M/103/11** dated 20.7.2011 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 BIPIN GARG ADV.
B-1/1289-A, VASANT KUNJ NEW DELHI

3. C.D.R
4. Bar association. CESTAT. New Delhi
5. Director Publications. Customs. Excise. I.P. Estate. New
6. M/s Centax Publictions Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi -
7. Company Law Institute of India Pvt Ltd.,No.2(Old No. 36), Vaithyaram Street, T. Nagar,Chennai -17
8. Taxmann Allied Service Pvt Ltd.. 59/32. New Rohtak Road. New Delhi -
9. Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road, Ahmedabad-15
10. LAWCRUX Advisors Pvt Ltd. LAW House.1-8.Sector - 10. Faridabad 121003 (Haryana)
11. TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor,Vasant Arcade,Nelson Mandela Road, Vasant Kunj, New Delhi - 110070
12. Office Copy
13. Guard file

Assistant Registrar
(SM Appeal Branch)

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

WEST BLOCK NO.II, R.K. PURAM, NEW DELHI-110066.
BENCH-SM

Excise ROA No. 7/11-SM
Excise Appeal No. E/1646/10-SM

[Arising out of Order-in-Appeal No.225(KKG)CE/JPR-II/2010 dated 27.04.2010 passed by the Commissioner (Appeals)-II, Central Excise, Jaipur].

M/s. Shree Cement Ltd. ...Appellant

Vs.

CCE, Jaipur-II ... Respondent

Present for the Appellant :Ms. Sukriti Das, Advocate
Present for the Respondent:Shri.S.K. Bhaskar, D.R.

Coram: HON'BLE MR. D.N. PANDA, JUDICIAL MEMBER

<u>Date of Hearing/Decision:20.07.2011</u>

Final **ORDER NO.** 456/2011-SM(BR) **DATED:**________
S-432/11, M-103/2011-SM(B)

PER: D.N.PANDA

Moving the MA (ROA) ld. Counsel submits that appeal was dismissed finding that there was negligible amount of penalty involved but the appeal was against disallowance of cenvat credit itself. Therefore, she prays that the appellant having merit, appeal may be restored and heard.

2. Looking to the appeal memo that the appellant has challenged the very order under appeal, the appeal is restored for hearing. Arguing on the merits of the case Ms. Sukriti Das argues that Maruti Suzuki case has been referred to the Larger Bench of the Apex Court for which the appellant shall get relief since there is nexus of the input credit with the output services. Her argument is that when the nexus was found there cannot be denial of granting Cenvat credit on input services. The order of adjudication was perused to examine the claim of appellant. At page 43 of appeal folder, the order explains that there was wrong availment of Cenvat credit of Rs.1,30,628/- by appellant during the period April 2006 to March, 2007 in respect of various services provided as detailed in Annexure A to the show cause notice. The authority found that the services were in relation to the residential colony, temple, canteen and residence of their Executive President. The places where services were availed are neither the place of manufacture or input was used in relation to manufacture. Therefore, authority came to the conclusion that Cenvat credit was availed wrongly.

3. Ld. DR supports the order of authorities below.

4. Heard both sides for a long time and not being convinced about the nexus, dependability, integrity, relevancy, indispensability and inevitability of the input credit with the

output services, the appellants appeal is to be dismissed. That is ordered accordingly.

5. In the result, MA (ROA) is allowed. Appeal is dismissed. So also stay application is dismissed.

[Dictated & Pronounced in the open Court].

(D.N.PANDA)
JUDICIAL MEMBER

Anita