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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/1811/2009 – SM[BR] E / MISC /681/2011-SM[BR] **Date 15/11/2011**

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

To :
HINDUSTAN ZINC LTD
YASHAD BHAWAN, UDAIPUR(RAJ)- 313001.

HINDUSTAN ZINC LTD Appellant

Vs

C.C.E. JAIPUR II Respondent

I am directed to transmit herewith a certified copy of **Final order No.768 /2011-SM[BR]&M/193/2011** dated 5.10.2011 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 V. LAKSMIKUMARAN ADV.**
B-6/10, SAFDARJUING ENCLAVE NEW DELHI-29.

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 (Harvana)
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)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

West Block No.2, R.K. Puram, NEW DELHI

COURT No. II

Misc. Appliation No.681 of 2011

Excise Appeal No. 1811 of 2009(SM)

[Arising out of Order-In-Appeal No.209/DK/CE/JPR-II/2009, dated 24.3.2009 issued by CCE, Jaipur]

Date of Hearing / Decision : 05.10.2011.

For approval and signature:
Hon'ble Mr. D.N.Panda, Judicial Member

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 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?	

M/s. Hindustan Zinc Ltd. — Appellant
Versus
CCE, Jaipur — Respondent

Coram: Hon'ble Mr. D.N.Panda, Judicial Member

Present for the Appellant - Shri H.Bajaj, Advocate
Present for Respondent - Shri S.K.Bhaskar, DR

Order No. 768/2011-SM(BR) **Dated :** 4

Per D.N. Panda: M-193/2011 SM(BR)

Ld. Counsel submits controversy in this appeal is reduced to two items. First one is Rope Packing ASB and the second item is Plastic Film LDPE. When the Appellate Authority found that both the goods are integrally connected for the respective purposes envisaged as is apparent from para 7 of the appellate order without interpreting what is called component, spares and accessories, he should not have held that because the impugned goods were not machinery by themselves that cannot be held to be capital goods. He also points out that when Rule 2(iii) has taken within its fold component, spares and accessories made out of goods specified in sub-clause(i) of the respective chapter to be capital goods, there cannot be denial of the benefits while construing meaning of capital goods under Cenvat Credit Rules, 2004.

2. Ld. DR on the other hand supports the appellate order.

3. Heard both sides and perused the records.

4. The Appellate Authority has not come to the conclusion that the impugned goods were not at all useful to make the impugned capital goods appearing under sub-clause (i) of Rule 2 of Cenvat Credit Rules, 2004 or no way related in this respect. If he had established disintegrity of the respective goods with the main capital goods, Revenue would have succeeded. But that is not the case of Revenue. Accordingly appeal of the appellant is allowed with consequential relief. Since the appeal is disposed, MA(Extension for stay) has become infactuous that is disposed accordingly.

(Dictated and pronounced in the Open Court)

(D.N.Panda)
Judicial Member

RK-I