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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

Date 14/12/2011

Appeal No. E/218 - 220 / 2009 – SM [BR]

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

1. **M/S MATESHWARI CEMENT PRIVATE LIMITED**
2. **MR. RAMAKANT AGARWAL DIRECTOR,**

MR RAMAKANT AGARWAL, 31, LAJPAT NAGAR,
SCHEME II, ALWAR, RAJASTHAN.
M/S MATESHWARI CEMENT PRIVATE LIMITED

Appellant

Vs

Respondent

C.C.E. JAIPUR I

I am directed to transmit herewith a certified copy of **Final order No. 864 – 866 / 2011-SM[BR]** Dated 30.11.2011 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 I
N.C.R.BUILDING, STATUE
CIRCLE, "C" SCHEME, JAIPUR
302005.

2. Adv. / Consult
MR.SRINIWAS KOTNI
K-1/114, FIRST FLOOR, CHITTARANJAN PARK, N 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 (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)

3. **M/S R.K.TRADING CO**
K-1/114, FIRST FLOOR, CHTTARANJAN
PARK NEW DELHI-110019.

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST BLOCK NO.II, R.K. PURAM, NEW DELHI-110066

COURT NO. II

Central Excise appeal No. 218 to 220/2009-SM

[Arising out of Order-in-Appeal No. 209-212 (DK) CE/JPR-I/2008 dated 29.10.2008 passed by the Commissioner (Appeals-I), Central Excise, Jaipur].

Date of Hearing: 30th November, 2011

For approval and signature:

Hon'ble Shri 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. Mateshwari Cement Private Limited,
Shri Ramakant Agarwal,
M/s. R.K. Trading Co., Appellants

Vs.

CCE, Jaipur-I Respondent

Present for the Appellant : Shri Chainmay Agarwal, Adv.
Present for the Respondent : Shri R.K. Verma, DR

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

FINAL ORDER NO. 864 - 866/2011 SM (BR)

Per D.N. Panda:

Learned Counsel submits that public authority should deal the matter before them to impart justice without any pretended justice. To say so he takes to Para 7 of the impugned order for comparison to the substratum of previous order dated 24.12.2007 which was sent back by the Tribunal for rehearing on the basis of principle of natural justice as is evident from page 8 of the previous order. He is fair to state that the appellant shall have no grievance to plead the matter both on facts, evidence and law on the date fixed by the learned Commissioner (Appeals) upon remand of the matter by the Tribunal. But what the authority has to do is to consider the entire submissions of the appellants afresh in the light of law and pass appropriate order.

2. On the other hand learned D.R. supports the order of the authorities below.

3. Heard both sides and perused the record.

4. Averment of learned Counsel has force when the respective paragraph cited by him is read with the contents of previous order dated 24.12.2007 passed by the learned Commissioner (Appeals). It is not fair on the part of the public authority to follow an empty formality to pass order which is detrimental to the interest of justice. Justice is not only to be done but it must be seen to have been done. This is a case where pretended justice has been done. Such an order falls on the ground ~~of not~~ without getting sanction of law.

5. In view of the observations aforesaid, the matter is remanded to the learned Commissioner (Appeals) for

thorough examination of the allegations made in the show cause notice, adjudication findings, averment of the appellant, evidence placed on record by the appellants and the law applicable in the matter in controversy and pass a reasoned and speaking order.

6. Since the matter has traveled a lot and in the meantime four years have already completed it is preferable that the appellants shall make an application to the authorities below by 27th January, 2012 to fix the date of hearing. If an application is made, the authorities shall fix the hearing and pass appropriate order in the light of the observations made above upon hearing the Appellant. Since the main appeal is disposed with the aforesaid direction, other two appeals stated to have been emanated from the common cause, also go back to the same authority for passing appropriate order with due care and examination of evidences placed before him.

7. In the result all the 3 appeals are disposed by way of remand to the ld. Commissioner (Appeals).

(Pronounced in the open Court)

(D.N.PANDA)
JUDICIAL MEMBER

RK