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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 03/05/2010

Appeal No. E/1032/2008-1034/2008 – SM[BR]

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

To :
M/S AMBUJA CEMENTS LTD. (UNIT: BATHINDA)
MALOUT ROAD,BATHINDA. Appellant
M/S AMBUJA CEMENTS LTD. (UNIT: BATHINDA) Vs
Respondent

C.C.E. CHANDIGARH

I am directed to transmit herewith a certified copy of **Final order No**. 468 – 470 / 2010 –SM[BR] dated 27.4.2010 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. CHANDIGARH
   C.R. BUILDING, PLOT NO. 19, SECTOR 17-C, CHANDIGARH 160017
2. Adv. / Consult SHRI RAVI RAGHAVAN ADV.
   B-6/10, SAFDARJUNG ENCLAVE NEW DELHI-29.

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 Company Law Institute of India Pvt Ltd.,No.2(Old No. 36), Vaithyaram Street, T. Nagar,Chennai -17
9 M/s. Deeparchie Publications, M-93, Marg. 46, Saket, New Delhi 110017
10 Taxmann Allied Service Pvt Ltd., 59/32, New Rohtak Road, New Delhi - 110005
11 Easy Service Tax Online Dot Com Pvt.Ltd.407A.Iscon Mall.Above Star India Bazar.Satellite Road.Ahmedabad-
12 LAWCRUX Advisors Pvt Ltd. LAW House.1-8.Sector - 10. Faridabad 121003 (Haryana)
13 Office Copy
14 Guard file
15 TAXINDIAONLINE.COM. PVT.LTD. UNIT NO.1,2ND FLOOR VASANT ARCADE, NELSON MANDELA ROAD, VASANT KUNJ NEW DELHI -70.

२. AMBUJA CEMENTS LTD. (UNIT- ROPAR)
VILLAGE-DABRUJI,ROAPAR.(HARYANA)

३. M/S AMBUJA CEMENTS LTD. (UNIT- BATHINDA)
MALOUT ROAD,BATHINDA.

Assistant Registr
(SM Appeal Branch

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, COURT NO. III

Excise Appeal Nos. 1032 -1034 of 2008-SM(BR)

[Arising out of Order-in-Appeal No. 179-181/CE/LDH/CHD/2008 dated 4.3.2008 passed by the Commissioner of Customs & Central Excise (Appeals), Chandigarh]

For approval and signature:

Hon'ble Mr. M. Veeraiyan, Member (Technical)

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1. Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982? : Yes
2. Whether it should 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? : Seen
4. Whether Order is to be circulated to the Departmental authorities? : Yes

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M/s. Ambuja Cements Ltd. — Appellants

Vs.

Commissioner of Central Excise
Chandigarh — Respondent

Appearance:

Shri Ravi Raghavan, Advocate for the Appellants
Shri S.K. Bhaskar, DR for the Respondent

Date of Hearing/decision : 27.4.2010

Final **ORAL ORDER NO. 468-470/2010- SM(BR)**

Per M. Veeraiyan:

These three appeals by the same appellants arise out of common order in appeal No. 179-181/CE/LDH/CHD/2008 dated 4.3.2008.

2. Heard both sides.

3. The dispute relates to admissibility of Cenvat credit of service tax paid on the outward transportation. The Commissioner (Appeals) decided the issue in favour of the department, by upholding the order of the original authority after following the decision of the Tribunal dated 14.3.2007 in the case of the appellants themselves as reported in 2007 (6) STR 249.

4. Learned Advocate for the appellants submits that against the decision of the Tribunal, the appellants filed appeal and the Hon'ble High Court of Punjab and Haryana vide judgement dated 10.2.09 set aside the orders of the Tribunal dated 14.3.2007.

5. Learned DR, sought time during the last hearing on 5.3.2010 to ascertain the present position of the order of the Hon'ble High Court relating to the appellants Learned DR submits, on instructions, that the proposal for filing SLP against the order dated 10.2.09 of the Hon'ble High Court of Punjab was sent to the Board on 17.2.09 and Commissioner has been informed by the Board by letter No. F.No. 276-277/09-CX-88 dated 15.6.09 that no SLP has been proposed to be filed. Learned DR also submits that the very issue relating to the admissibility of Cenvat credit on outward transportation is before the Hon'ble High Court of Karnataka.

6. I have carefully considered the submissions from both sides. In this particular case, the Commissioner (Appeals) followed the order of the Tribunal dated 14.3.2007 relating to the very same appellants. It is not being disputed that the order of the Tribunal dated 14.3.2007 stands set aside by the jurisdictional High Court of Punjab and Haryana and that CBEC has taken decision not to file appeal against the said decision. Under these circumstances, the submission of the learned Advocate that their appeal should be allowed in the light of decision of the Hon'ble High Court of Punjab and Haryana in their own case reported in 2009 (14) STR 3 deserves to be accepted.

7. The appeals are allowed with consequential relief as per law.

(M. Veeraiyan)
Member(Technical)

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