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/279 /2008 – SM[BR] E / CO / 132 / 2008 –SM[BR] Date 13/01/2010

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

To :
C.C.E. LUDHIANA
CENTRAL EXCISE HOUSE, 'F' BLOCK, RISHI NAGAR,
LUDHIANA 141001 (PUNJAB)

C.C.E. LUDHIANA Appellant

Vs

M/S VEE TEE CEMENT PVT. LTD. Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 70 / 2010 –SM[BR] dated 8.1.2010 passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(SM Appeal Branch)

Copy to :
1. Respondent
   M/S VEE TEE CEMENT PVT. LTD.
   DHARMKOT, MOGA (PUNJAB)
2. Adv. / Consult
   NONE;--------------

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 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 Kunj. 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 (Haryana)
16 Office Copy
17 Guard file

Assistant Registrar
(SM Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
COURT NO.II

E/Appeal No.279/2008-SM(Br), CO 132/08-SM

(Arising out of order in appeal No. 344/CE/Ldh/07 dated 20.11.07 passed by the Commissioner of Central Excise (Appeals), Ludhiana)

CCE Ludhiana — Appellant

Vs

M/s Vee Tee Cement (P) Ltd — Respondent

Appeared for Appellant : Shri Surender Sah, SDR
Appeared for Respondent : None

Date of Hearing: 24.12.09

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

Final Order No. 70/2010 SM(Br) ~~/2009~~

Per D.N. Panda:

Revenue has come with the grievance that the raw material gypsum claimed to have been used in manufacture of cement were not accounted for. Such failure resulted in clearance of cement without issuance of invoice and without payment of duty. Learned Commissioner observed that there was no loss of gypsum during the process of cement and allowed the appeal.

2. None is present for the respondents.

3. Learned DR submitted that gypsum used was disproportionate and the respondent was unduly benefited without

maintaining proper accounts of gypsum. Cement manufactured was not properly accounted for.

4. Heard the learned DR and also perused the record.

5. Looking to para 4 of the order in appeal, it is noticed that the allegation was based on assumption and without any objective enquiry, no inference of clandestine clearance of cement can be made. Accordingly, the assessee is not liable to be dealt with determinately. Finding of the learned Commissioner does not appear to be baseless and there is scope for interference with the order appealed. Revenue's appeal is accordingly dismissed.

6. In view of disposal of the appeal, cross objection is also disposed of.

(Order dictated and pronounced in the open Court).

(D.N. Panda)
Judicial Member

MPS*