

GRAM : CEGCANAL

REGISTERED/A.D

THE CUSTOMS, EXCISE & GOLD (CONTROL) APPELLATE TRIBUNAL,

West Block No. 2, R.K. Puram, New Delhi - 110066.

E/Misc./470/00 - NB (SM) BENCH NB (SM)
Appeal No. E/143/2000 - NB (SM)

Dated : 30/1/2001

CEGAT
NEW DELHI

To,

M/s A.C.C. Ltd.,

Jamul Cement works

Distt. Durg - 490 024 (M.P)

In the matter of :

M/s A.C.C. Ltd.,

Appellant

vs.

C.C.E. Bhopal

Respondent

I am directed to transmit herewith a certified copy of Final Order No. A/137/2001 - NB (SM)
Dated : 12-10-2000 passed by the Tribunal under Section 35-C(1) of Central Excise & Salt Act, 1944/Section 129 (B) of the Customs, Act, 1962.

Copy to :

Asstt. Registrar
NB (SM)

1. CCE Bhopal
2. CCE / CC / (Appeal) Bhopal
3. Chief Commissioner of Central Excise / Customs. Jaipur
4. Adv. / Consult. Shri A.N. Haksar, Sr. Adv. & Shri A.C. Pandey, Adv. Plaza Cinema Building Connaught Circus, New Delhi - 110001.
5. S.D.R
6. JCDR
7. Bar Association, CEGAT, New Delhi
8. Library, CEGAT, New Delhi
9. Director (Review), C.B.E.C. North Block, New Delhi
10. Guard File.
11. M/s Deeparchic Publications, M-93, Marg-46, Saket, New Delhi.
12. M/s Centax Publications (P) Ltd., 1512-E, Bhishm Pitamah Marg, opp. Sachdeva P.T. College of Defence Colony, New Delhi-110003
13. M/s Lex Site Com. Ltd., Mumbai
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Asstt. Registrar

CUSTOMS, EXCISE & GOLD (CONTROL) APPELLATE TRIBUNAL
NEW DELHI

No.E/Misc/470/00-NB(S) in A.No.E/143/2000-NB(S)

(Arising out of Order-in-Original No. 1252-E/BPL/99 issued in Order No. 14-CE/RPR/APPL/98/9246 dt. 14.10.1999 passed by the Commissioner of Customs & Central Excise, Bhopal)

M/s. A.C.C. Ltd. .. Appellants
(Rep. by Shri A.N. Haksar, Sr. Advocate & Shri R.C.Pandey, Advocate)

vs.

C.C.E. ~~Kanpur~~ Bhopal .. Respondent
(Rep. by Shri M.D. Singh, SDR)

DOH: 12.10.2000:

FINAL ORDER No. A/137/01/NB CE/m/ dt:

Per K.K. Bhatia, Member (T):

The appellants manufacture Portland Slag Cement falling under Chapter Sub-heading 2502.29 of the Schedule to the Central Excise Tariff Act, 1985. They are also availing modvat credit on capital goods under Rule 57Q of the Central Excise Rules, 1944. During the months of August, 1996, October, 96, November, 96 and January, 97, they availed modvat credit totally amounting to Rs.3,93,360/- under Rule 57Q on the Grinding Media Balls and on Hi-chrome Cylpebs respectively. The Asst. Commissioner of Central Excise, Division-II, Bhilai vide his order dt. 10.10.97 denied them the modvat credit and confirmed a demand of the aforestated amount on them under Rule 57-I of the Central Excise Rules, 1944 read with Section 11-A of Central Excise Act, 1944.

2. The party filed an appeal and the Commissioner (Appeals), Bhopal vide his order dt. 14.10.99 upheld

the order of the original authority by rejecting the appeal of the party for the modvat credit on the grinding media but allowed the appeal for credit on Cylpebs.

3. The present appeal is against the above order of Commissioner (Appeals). The appellants have also filed a Miscellaneous Petition for making certain modifications in their appeal. However, during the course of hearing, the same was withdrawn by Shri A.N. Haksar, Sr. Advocate appearing for the appellants. I have heard Shri A.N. Haksar, Sr. Advocate assisted by Shri R.C. Pandey, Advocate for the appellants and Shri M.D. Singh, SDR for the Respondents. The Id. Sr. Counsel for the appellants is relying on the following decisions of the Tribunal in which the modvat credit is held to be admissible on the grinding media -

- (i) Century Cements vs. CCE - 1997 (95) ELT 69 (T) &
- (ii) CCE vs. New Vikram Cement Mills - 1995 (95) ELT 98(C).

4. In the above two decisions, the modvat credit on the Grinding Media Balls and Cylpebs is held to be admissible under Rule 57A used in or in relation to the manufacture of Cement. The only difference is that the appellants in the present case claimed the modvat credit on these items as capital goods under Rule 57Q whereas the same is available on these items as inputs under Rule 57A. I have considered the submissions made before me. In my view, admissibility of the modvat credit on the impugned items under Rule 57A is not disputed. If the credit under Rule 57Q is disallowed, the same would have to be allowed under Rule 57A in view of the ratio of the

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above cited decisions. Therefore, there is no ground to deny the modvat credit to the appellants in the facts and circumstances of the present case. Consequently, the appeal succeeds and the same is allowed with consequential relief, if any.

(Announced in the Court)

(K.K. Bhatia)
Member (Technical)

MS.