

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
EXCISE APPEAL BRANCH

Appeal No. E/3208/2010 - EX[DB] WITH E/S/2996/2010-EX

Date **02/09/2011**

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

To :
M/S MULTIMETALS LTD.
INDUSTRIAL ESTATE, KOTA (RAJ.)
M/S MULTIMETALS LTD.

Appellant
Vs
Respondent

C.C.E. JAIPUR I

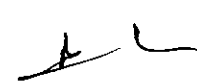
STAY ORDER NO. 851/2011-EX

I am directed to transmit herewith a certified copy of **Final order No.791/ 2011 EX[DB]** dated 30-8-11
passed by the Tribunal under **Section 35-C(1) of Central Excises Act, 1944**


Assistant Registrar
(Excise 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.K K ANAND, ADVOCATE
A-103, DEFENCE COLONY, NEW DELHI-110024
3. C.D.R
4. Bar association, CESTAT, New Delhi
5. Director Publications, Customs, Excise. I.P. Estate. New Delhi
6. M/s Centax Publications 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 - 110005
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
(Excise Appeal Branch)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

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

COURT-I

Date of hearing/decision: 29.8.2011

**Stay Application No.2996 of 2010 in
Central Excise Appeal No.3208 of 2010**

Arising out of order in appeal No.332(DKV)CE/JPR-I/2010 dated 6.7.2010 passed by the Commissioner (Appeals I), Customs & Central Excise, Jaipur.

For Approval and Signature:

Hon'ble Ms. Jyoti Balasundaram, Vice President
Hon'ble Shri Mathew John, Technical Member

1	Whether Press Reporter may be allowed to see the Order for publication as per Rule 26 of the CESTAT (Procedure) Rules, 1982?	No
2	Whether it should be released under Rule 26 of CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	No
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

Multimetals Ltd.

.. Appellants

Vs.

C.C.E. , Jaipur I

... Respondent

Appearance:

Shri K.K.Anand, Advocate for the appellant

Shri S.R. Meena, Authorized Departmental Representative(DR) for the Revenue

Coram: Hon'ble Ms. Jyoti Balasundaram, Vice President
Hon'ble Mr. Mathew John, Technical Member

STAY Order No- 851/2011-EX
FINAL Oral Order No. 791/2011-EX

Per Ms. Jyoti Balasundaram:

For the reasons recorded below, we waive pre-deposit of duty of Rs.43,80,913/- together with penalty of equal amount and we proceed to decide the appeal as the issue lies in a narrow compass.

2. The Joint Commissioner of Central Excise has dropped the demand of duty raised in the show cause notice dated 17.4.2008; the order was reviewed by the Commissioner (Executive) and it was decided to prefer an appeal against the order of Joint Commissioner. The appeal was preferred and decided against the assessee by the Commissioner (Appeals) who was earlier Commissioner (Executive) who had taken the decision to review the order of the adjudicating authority. The contention of the assessee against the validity of the impugned order is therefore, sustainable as the same officer who had reviewed the adjudication order has decided the appeal. Therefore, the impugned order cannot be sustained and we accordingly, set it aside. However, it is open to another appellate authority to decide the case afresh after hearing the assessee.

3. The appeal is thus allowed in the above terms.

(Jyoti Balasundaram)
Vice President

(~~Mathew John~~)
Technical Member

scd/