15

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

EXCISE APPEAL BRANCH

Appeal No. E/106 /2008-107 /2008 - EX[DB]

Date **18/01/2012**

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

To :
C.C.E. JAIPUR II
N.C.R.BUILDING. STATUE CIRCLE. "C" SCHEME.
JAIPUR 302005.

C.C.E. JAIPUR II Appellant

Vs

M/S J. K. CEMENT WORKS Respondent

I am directed to transmit herewith a certified copy of **Final order No. A/28-29/ 2012 EX[DB]** dated 17-1-12 passed by the Tribunal under **Section 35-C(1)of Central Excises Act, 1944**

Assistant Registrar
(Excise Appeal Branch)

Copy to :

1. Respondent
M/S J. K. CEMENT WORKS
MANGROL, CHITTORGARH.
RAJASTHAN

2. Adv. / Consult
MR.V. LAXMIKUMARAN
B-6/10. SAFDARJUNG ENCLAVE. NEW DELHI-110029

3. C.D.R
4. Bar association. CESTAT. New Delhi
5. Director Publications. Customs. Excise. I.P. Estate. New Delhi
6. M/s Centax Publictions Pvt Ltd.,1512-B. Bhishm Pitamah marg,Opp. ICICI Bank of Defence Colony. New Delhi-3
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 (Haryana)
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)

14. M/S J.K.CEMENT WORKS[NIMBAHERA]
CHITTORGARH. RAJASTHAN

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI

PRINCIPAL BENCH, COURT NO. III

Excise Appeal No.106-107 of 2008

[Arising out of Order-In-Original No.28-29/CE/JP-II/2007, dated 10.09.2007 issued by CCE, Jaipur]

For approval and signature:
Hon'ble Ms. Archana Wadhwa, Judicial Member
Hon'ble Mr. Mathew John, Technical 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?	

CCE, Jaipur-II — Appellant
Vs.
M/s J.K.Cement Works — Respondents

Coram: Hon'ble Ms. Archana Wadhwa, Judicial Member
Hon'ble Mr. Mathew John, Technical Member

Appearance:
Shri N.Pathak, DR for the Appellant
Shri Amit Jain, Adv. for the Respondents

Date of Hearing/decision : 11.01.2012

FINAL **ORDER NO . 28-29/2012-Ex(Br) DATED**

Per Ms. Archana Wadhwa:

The prime issue involved in the appeal of the Revenue is as to the whether the respondents are entitled to avail the credit of service tax paid on the GTA services in respect of the goods cleared from their factory and supplied to their customers.

2. The Commissioner in his impugned order has held that the cheques given by the customers were to be encashed only after

the delivery of the goods and as such the place of removal is required to be considered as buyers' premises.

3. We find that without going into the above aspect, the appeal can be disposed of by following the Larger Bench of the Tribunal in the case of ABB Ltd. reported in 2009(15)STR23(Tri.-LB) and the Hon'ble High Court of Karnataka's decision reported in 2011(23)STR97(Kar.) vide which the appeal filed by the Revenue was rejected. It stands held by the above judgement that an assessee is entitled to avail the credit of service tax paid on the GTA services availed by him for outward transportation of the final product.

4. In as much as the issue stands settled by the above referred decision of the Tribunal, we find no merit in the appeal of Revenue, the same is accordingly rejected.

(Pronounced in the open Court)

(Archana Wadhwa)
Member(Judicial)

(Mathew John)
Member(Technical)

RK-I