

IN THE CUSTOMS, EXCISE & SERVICE TAX  
APPELLATE TRIBUNAL,  
WEST BLOCK NO.2, R.K. PURAM, NEW DELHI-110066

BENCH-DB

COURT –I

**Excise Appeal No.E/170/2011-[DB]**

[Arising out of Order-in-Appeal No. 383(CB)CE/JPR-II/2010 dated  
21.10.2010 passed by the Commissioner (Appeals-I), Jaipur].

Shree Cement Ltd.

...Appellant

Vs.

C.C.E. Jaipur

... Respondent

Present for the Appellant : Mr. Kumar Vikram. Advocate

Present for the Respondent: Mr. R. K. Mishra, D.R.

**Coram: HON'BLE JUSTICE (DR.) SATISH CHANDRA, PRESIDENT  
HON'BLE MR. V. PADMANBHAN, MEMBER (TECHNICAL)**

**Date of Hearing/Decision: 09/06/2017**

**FINAL ORDER NO. 53822 /2017**

**PER: JUSTICE (DR.) SATISH CHANDRA**

The present appeal is filed against order in appeal No. 383/2010 dated 29.10.2010. The brief facts of the case are that from the International Agency under United Nations Development Programme, there was the grant to Rajasthan Govt. for constructing the road through M/s Surya Construction Company, who asked the appellant to supply the cements. The appellant had supplied 786 MT cement to M/s Surya Construction

Company. The appellant has not paid the duty on the cement supplied to M/s Surya Construction Company under the plea that the same will be utilized by the International Agencies under Notification No. 108/1995 dated 28.08.1995.

2. The contract was terminated by the PWD Jhalawar Rajasthan as per the letter dated 01.12.2008 so the department had demanded the duty on the cement supplied by the appellant to M/s Surya Construction Company. Being aggrieved, the appellant has filed the present appeal before the Tribunal.

With this background, we heard Sh. Kumar Vikram & Sh. R.K. Mishra, the Ld. Counsel for the parties.

3. We have perused the case record.

4. From the record it appears that the appellant had supplied the above mentioned quantity of cement to M/s Surya Construction. The only dispute is whether this cement was utilized in the project funded by the United Nations Agency. To this effect, a certificate from PWD is required under whose supervision the construction work was carried out. During the course of argument, the Ld. Counsel for the appellant assured that the said certificate will be obtained from the PWD Jhalawar under RTI and will be submitted before the lower authorities.

5. In view of above, we set aside the impugned order and remand the matter back to the original authority to decide the issue

denovo after getting the necessary certificate as stated above but by providing the reasonable opportunity of being heard.

6. Fresh evidence, if needed, may be admitted as per law. In the result appeal filed by the appellant is allowed by way of remand.

[Dictated and pronounced in the open Court]

**(V. PADMANBHAN)**  
**MEMBER (TECHNICAL)**

**(JUSTICE (DR.) SATISH CHANDRA)**  
**PRESIDENT**

Neha