

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

Date of hearing/decision:19.12.2018

Excise COD No.51093/2018 and in Appeal Nos.52818 and 53211/2018-EX(DB)

(Arising out of common Order-in-Original No.23/AC/CEX/REWA/2016-2017 dated 28.03.2017 passed by the Commissioner(Appeals), Central Goods & Service Tax and Central Excise, Bhopal)

CCE, Jabalpur/Bhopal ...Appellant
(Rep by Shri H.C. Saini & Shri R.K. Mishra, ARs for the appellant)

Vs.

Jaypee Nigrie Super Thermal Power Project ...Respondent
(Rep. by Shri Dhruv Tiwari, Advocate for the respondent)

CORAM : HON'BLE SHRI ANIL CHOUDHARY, MEMBER (JUDICIAL)
HON'BLE SHRI BIJAY KUMAR, MEMBER (TECHNICAL)

FINAL ORDER No.53509/2018

Per Anil Choudhary:

It has come to our notice that the appellant/Revenue has filed two appeals against the same order-in-original No.23/AC/C.EX/REWA/2016-17 dated 28.03.2017 . The first appeal was filed on 5.2.2018, which was in time and the same was registered by this Tribunal as E/52818/2018.

2. The second appeal against the same impugned order was filed by the Revenue, which was received on 9.5.2018 and the said appeal was registered as E/53211/2018 along with E/COD/51093/2018.

3. As per the record of the Registry, the first appeal was defective and the said defects were removed on 15.06.2018 and the appeal was regularized. In

this view of the matter, we dismiss the present appeal no.E/53211/2018 along with COD application as infructuous and the Revenue is directed to pursue their appeal No.E/52818/2018.

4. As the issue is apparently covered by the ruling of the Madras High Court in the case of CE & C Vs. Mettur Thermal Power Station – 2017 (349) ELT 708 (Madras), we allow out of turn hearing of the matter and fix the same on 9.1.2019.

(Dictated & pronounced in the open court)

(Anil Choudhary)
Member (Judicial)

(Bijay Kumar)
Member (Technical)

Ckp