

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH AT HYDERABAD**

Division Bench

Court - I

Appeal No. E/774/2009

(Arising out of Order-in-Appeal No.11/2009 (T) CE dated 18.05.2009 passed by CCCE & ST (Appeals), Guntur)

**Panyam Cements & Mineral
Industries Ltd**

..... **Appellant(s)**

Vs.

CCCE & ST, Tirupati

..... **Respondent(s)**

Appearance

Shri P. Rosi Reddy, Advocate for the Appellant.

Shri P.S. Reddy, Asst. Commissioner/AR for the Respondent.

Coram:

HON'BLE Mr. M.V.Ravindran, MEMBER (JUDICIAL)

HON'BLE Mr. P. Venkata Subba Rao, MEMBER (TECHNICAL)

Date of Hearing: 23.10.2018

Date of Decision: 23.10.2018

FINAL ORDER No. A/31400/2018

[Order per: M.V.Ravindran.]

1. This appeal is directed against Order-in-Appeal No. 11/2009 (T) CE dated 18.05.2009.
2. Heard both sides and perused the records.
3. On perusal of records, it transpires that issue is regarding the demand of Central Excise Duty on the cement cleared for captive consumption for expansion of the plant during the period May, 2007 to June, 2007. Both the lower authorities have come to a conclusion that demand is correct and hence held against the appellant confirming the demands with interest and imposed penalty. Learned counsel submits on the same issue for the same appellant, for subsequent period, identical demands were raised and appeal

was preferred before the Tribunal in Appeal No.E/1132/2009 which was decided by Final Order No. A/30629/2018 dated 06.06.2018 and held that demand is not sustainable. He produced the copy of the said final order dated 06.06.2018.

4. Learned departmental representative submits that issue is same in both the cases.

5. On careful consideration and perusal of Final Order dated 06.06.2018 we find it so. Since, the issue is already settled in favour of appellant herein by this bench, we do not find any reason to deviate from such a view already taken. Accordingly, we hold that impugned order is unsustainable and liable to be set aside and we do so.

6. The impugned order is set aside and the appeal is allowed with consequential relief, if any.

(Dictated and pronounced in the open Court)

(P.VENKATA SUBBA RAO)
MEMBER (TECHNICAL)
Veda

(M.V. RAVINDRAN)
MEMBER (JUDICIAL)