

**Polycem Ltd. Vs. Commissioner of Central Excise**

**Polycem Ltd. Vs. Commissioner of Central Excise**

**SooperKanoon Citation :** [sooperkanoon.com/26917](http://sooperkanoon.com/26917)

**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

**Decided On :** Dec-06-2001

**Reported in :** (2002)(80)ECC433

**Appellant :** Polycem Ltd.

**Respondent :** Commissioner of Central Excise

**Judgement :**

1. This appeal is against the order of the Collector where in he has confirmed the recovery of duty no paid on the goods removed without accounting the same and imposed a penalty. After hearing both the side for some time, it was successfully pointed out by the Ld. Advocate for the appellants that a plea had been taken by them in Para 3 of their reply dt. 15.04.94, as regards certain large quantities of the goods received back by them under the provisions of Rule 173 H for reprocessing, along with the registers produced in evidence thereof, which was not considered by the adjudicator. If this quantity of reprocessed goods was considered, the Collector he could have come to a conclusion about the exact quantity of goods not accounted or the quantum of clandestine clearance. Since the appellant submits that this fact has not been considered by the adjudicator to which the Ld. D.R.agrees, I have no hesitation in setting aside the order and remanding the mater back to the Collector for denovo adjudication keeping all the matters and issues open to be re-deciding as per law. Since this issue is pending for along time, I would consider fixing a time of 3 months from the date of this order to complete the re-adjudication.

