

**Commissioner of Central Excise Vs. Perfect Stoneware Pipes**

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

**Decided On :** Jan-28-2002

**Reported in :** (2002)(80)ECC543

**Judge :** S Kang, a T V.K.

**Appellant :** Commissioner of Central Excise

**Respondent :** Perfect Stoneware Pipes

**Judgement :**

1. Revenue filed these appeals against the common order-in-appeal passed by the Commissioner (Appeals).
2. When the case was called none appeared on behalf of the respondents.

Respondents made a request for adjournment. As we find that the issue is already covered by the decision of the Hon'ble Gujarat High Court in the case of Ahmedabad Electricity Co. Ltd. v. Union of India, reported in 2001 (131) E.L.T. 535 (Guj.), the request for adjournment is declined.

4. The Commissioner (Appeals) in the impugned order held that Coal ash (cinder) is not a manufactured excisable product liable to Central Excise duty. Learned Commissioner relied upon the decision of the Tribunal in the case of Shaw Wallace Gelatines Ltd. v. Commissioner of Central Excise, Indore, 5. The contention of the Revenue is that the decision of the Tribunal in the case of Shaw Wallace Gelatines Ltd. relied upon by the Commissioner (Appeals) is not accepted

by the Revenue and Revenue has decided to file appeal before the Hon'ble Supreme Court.

6. Further, we find that Hon'ble Gujarat High Court in the case of Ahmedabad Electricity Co. Ltd. v. Union of India, reported in 2001 (131) E.L.T. 535 (Guj.) also held that Coal ash (cinder) obtained by burning of coal in boiler as residue of burnt up coal and cannot be said to be excisable goods. In view of the above decision of the Hon'ble High Court, we find no infirmity in the impugned order. The appeals filed by the Revenue are rejected.

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