

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

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**SooperKanoon Citation :** [sooperkanoon.com/46502](http://sooperkanoon.com/46502)

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

**Decided On :** Nov-22-2007

**Reported in :** (2008)10STR223

**Judge :** M Ravindran

**Appellant :** Acc Ltd.

**Respondent :** Commissioner of Central Excise

**Judgement :**

1. This stay application is directed against the confirmation of demand and imposition of penalty.

Considered the submissions made by both the sides and perused the records.

2. The issue involved in this case is regarding the eligibility of the applicant for availing credit of the service tax paid on the GTA service for transporting the final products to the dealers and depot.

3. This issue has been referred to Larger Bench by the Regional Bench of Bangalore in the case of India Cements Ltd. v. C.C.E., Tirupati 2007 (8) S.T.R. 43 (Tri.) : 2007 (216) E.L.T. 81. It is the convention that when the matter is referred to a Larger Bench stay of recovery of the amount is granted. There is no reason to deviate from such convention.

4. Accordingly, since the issue in dispute in this case stands referred to Larger Bench, the application for waiver of pre-deposit of the amounts involved is allowed and recovery thereof stayed till the disposal of the appeal.

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