The India Cements Ltd. Vs. Commissioner of Central Excise, Trichy

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Chennai

Decided On : Nov-06-2009

Judge : The Honourable Dr. Chittaranjan Satapathy, Technical Member &Amp; the Honourable Mr. P.K. Das, Judicial Member

Appeal No. : Appeal No.E/1115 of 2003 & E/CO/4 of 2004

Appellant : The India Cements Ltd.

Respondent : Commissioner of Central Excise, Trichy

Advocate for Pet/Ap. : Shri M.N.Bharathi, Advocate. Ms.Indira Sisupal, JDR

Judgement :

Per Dr.Chittaranjan Satapathy

Heard both sides. Shri M.N.Bharathi, ld. Advocate appearing for the appellants states that there are three issues involved in this case. The first one relates to denial of credit to parts of surface miners which are used in the captive mines of the appellants. He states that credit is admissible in respect of such parts used in the captive mines in view of the decision of the Hon’ble Supreme Court in the case of Vikram Cement Vs CCE Indore

[2006 (197) ELT 145 (SC)].

2) The second issue relates to denial of credit on high temperature CCTVs used in the Kiln. He states that such CCTVs have been allowed credit in the following decisions of the Tribunal :-

1) Associated Cement Companies Ltd. Vs CCE Bhopal 2006 (200) ELT 71

2) Jaypee Bela Plant Vs CCE Raipur, 2003 (161) ELT 422

3) The third issue relates to restriction of 75% of the additional duty of customs paid on imported goods received before 1.3.1997. He states that in the case of CCE Jaipur Vs Raj Cement [2003 (159) ELT 302], it has been held that date of receipt of goods is relevant, whereas in the present case, since the impugned goods were received on 23.3.1996 well before 1.3.1997, the appellants are eligible for 100% of the credit of the additional duty of customs without restricting it to 75%.

4) Heard ld. DR.

5) We find that all the three issues are covered by the cited decisions of the Hon’ble Supreme Court and the Tribunal under which the credit denied in respect of the three different items have been allowed. Following the ratio of the cited decisions, we set aside the impugned order in so far it relates to the above three categories of impugned goods and allow the appeal. The cross-objection stands disposed off.