

CESTAT RULING[2010-TIOL-1295-CESTAT-KOL](#)**M/s Bestlite Industries Vs CCE, Kolkata (Dated: March 25, 2010)**

Central Excise – Appellate Commissioner's order directing assessee to pre-deposit full amount of duty and penalty without any personal hearing violates principles of natural justice and contrary to Section 35A of Central Excise Act – Impugned order set aside and matter remanded

[2010-TIOL-1293-CESTAT-BANG](#)**Asrani Tubes Ltd Vs CC & CCE, Hyderabad (Dated: May 28, 2010)**

Central Excise – Demand of interest – Irregular credit availed recovered with penalty after issue of first SCN in 1996 – Second SCN issued after 11 years for demand of interest under Rule 57I of CER, 1944 – Since provision for recovery of interest introduced only w.e.f. 01.03.1997, demand of interest not sustainable

[2010-TIOL-1292-CESTAT-AHM](#)**M/s Hema Exports Vs CCE, Surat (Dated: July 29, 2010)**

Central Excise – 100% EOU – Shortage of goods noticed during the surprise check conducted and recorded in the panchanama and admitted by the partner of the appellants - In view of the evidences in the nature of panchnama, admission statements of partner and admission statement of the broker, the illicit removal of yarn has to be upheld.

[2010-TIOL-1286-CESTAT-DEL](#)**M/s Synthetic Silica Products Vs CCE, Kanpur (Dated: July 13, 2010)**

Central Excise – Remission of duty on goods destroyed in fire accident – Commissioner's finding that the party had not managed properly and they are guilty of negligence, omission and bad management are not borne out of the facts - Finding that the goods have been destroyed due to negligence, omission and bad management is set aside and matter remanded for passing a speaking order.

[2010-TIOL-1285-CESTAT-DEL](#)

M/s Yamaha Motors India (P) Ltd Vs CCE, Noida (Dated: August 6, 2010)

Central Excise – CENVAT Credit – Used lubricants removed as waste oil – Credit is not required to be reversed.

Job –work – Inputs sent to the job-worker not received back - The assessee had produced before the Commissioner (Appeals) job-work challans showing the return of inputs in respect of part of the demand which was set aside by the Commissioner (Appeals) – No reason to interfere with the order of the Commissioner (Appeals).

Penalty – Penalty under Section 11 AC is not attracted – Reduced penalty of Rs 50,000/- under Rule 571/57AH of the Central Excise Rules is moderate and no further reduction is justified.

[2010-TIOL-1282-CESTAT-DEL](#)

M/s G L Metallica Pvt Ltd Vs CCE, Jaipur-I (Dated: June 21, 2010)

Central Excise – CENVAT Credit - The registered dealers who passed on the credit have not received the goods with proper duty paying documents - The goods were procured from other sources - There is no correlation between the document supplied by the Importer and the goods arranged by the broker. The credit passed on by the registered dealers was irregular and therefore, the credit taken by the manufacturer is not legal and proper.

There is no evidence that the two registered dealers and the manufacture are aware of the fabrication of bill of entry as duty paying documents. They have acted bonafide . Therefore, penalties on them are not sustainable.

[2010-TIOL-1281-CESTAT-DEL](#)

M/s Sidh Industries Vs CCE, Chandigarh (Dated: May 28, 2010)

Central Excise – Registered dealer – All the evidence shows that ever since the Appellant firm had been given registration for operating as registered dealer in iron steel items of Chapter 72 of Central Excise Tariff, they neither had any office / premises nor they were maintaining any account – Registration has rightly been cancelled by the Assistant Commissioner.

[2010-TIOL-1278-CESTAT-AHM](#)

M/s Ambica Re-Rolling Mills Vs CCE, Ahmedabad (Dated: June 1, 2010)

Central Excise – Goods falling under Chapter 72 of CETA manufactured in structural mill and bar mill installed in factory and cleared on payment of duty based on annual capacity of production – Intimation of closure of structural mill w.e.f 1.4.1998 and bar mill w.e.f. 1.4.1999 given to Commissioner and duty paid on actual production in terms of Section 3A(4) – Differential duty demanded in terms of Rule 96ZP(3) denying benefit of Section 3A(4) on the ground that benefit of said Rule available only when benefit not claimed under Section 3A(4) – Held: Plethora of judgements from CESTAT holding option can be changed in subsequent financial year and relied upon by appellant, not considered by Adjudicating Authority – Matter remanded for *de novo* consideration by following principles of natural justice – Appellant directed to cooperate with adjudicating authority without seeking unnecessary adjournments

[2010-TIOL-1277-CESTAT-BANG](#)

M/s Boruka Trailers Pvt Ltd Vs CCE, Bangalore (Dated: April 30, 2010)

Central Excise – Refund of pre -deposit – Pre-deposit amount adjusted against dues arising against a confirmed demand – Since the duty demand was set aside by Tribunal, in the absence of any confirmed dues, pre-deposit has to be returned to assessee – Impugned orders set aside

[2010-TIOL-1276-CESTAT-BANG](#)

CCE, Mysore Vs M/s Chamundi Textiles (Silk Mills) Ltd (Dated: April 16, 2010)

Central Excise – Refund of unutilized CENVAT Credit under Rule 5 of CCR, 2004 – When time limit for filing of refund claim is one year, there is no requirement that input credit claimed as refund should correspond to months in which exports have taken place – No infirmity in impugned order of Appellate Commissioner allowing refunds

Refund of CENVAT Credit – Credit eligible to be taken on invoices raised on pure agent bearing liabilities on behalf of assessee – Service tax paid on CHA service, servicing of car etc eligible as CENVAT Credit – Invoices raised on head office eligible for credit at factory – Service tax on input services availed for supply of goods to SEZs eligible for credit/refund – In the absence of details of consultancy service availed for acquisition of business outside India, credit not eligible .

[2010-TIOL-1274-CESTAT-DEL](#)

CCE, Delhi Vs M/s HI -TECH Electronics Industries (Dated: May 12, 2010)

Central Excise – Denial of small scale exemption under Notification 1/93 CE to the goods manufactured by other manufacturers in the same factory under the same brand name – Commissioner (Appeals) clearly erred in holding that liability in matter lies upon the main manufacturer in whose factory the goods were manufactured and not on the respondent assesseees – Order of original authority confirming the demand on the respondent assesseees is restored.

2010-TIOL-1273-CESTAT-KOL
M/s Cradel Pharmaceutical Pvt Ltd Vs CCE, Kolkata (Dated: March 3, 2010)
Central Excise – Eligibility of CENVAT credit on ‘fruit flavour mix’ when both inputs and finished goods alleged to contain alcohol – When finished products manufactured out of impugned inputs are cleared on payment of excise duty, credit not deniable on duty paid inputs – Tribunal decision in Savera Pharmaceuticals Pvt Ltd 2007-TIOL-1768-CESTAT-DEL followed – Impugned order set aside
2010-TIOL-1272-CESTAT-BANG
M/s Micro Labs Ltd Vs CCE , Bangalore (Dated: May 25, 2010)
Central Excise – CENVAT credit – Credit availed on ‘steel doors with frames’ as ‘capital goods’ but reversed subsequently without utilization, interest not liable to be paid in lieu of P & H High Court decision in Ind-Swift Laboratories case = 2009-TIOL-440-HC-P&H-CX – Credit availed due to misunderstanding of provision of law but reversed subsequently without utilization, penalty not leviable – Impugned order set aside
2010-TIOL-1269-CESTAT-BANG
M/s JSW Steels Ltd Vs CC, Belgaum (Dated: February 2, 2010)
Central Excise – Classification – Mixture of gases termed ‘export gas’ emerging during manufacture of HR coils whether ‘carbon monoxide’ classifiable under Chapter 281190 and exigible to duty – ‘Export gas’ subjected to further process and sold for use as fuel in generation of electricity – Gaseous mixture predominantly being carbon monoxide, rightly classifiable under Chapter Heading 281190 as claimed by Revenue and not Chapter 2705 as claimed by Assessee
2010-TIOL-1268-CESTAT-BANG
M/s Bidar Sahakara Sakkare Karkhane Ltd Vs CCE, Belgaum (Dated: June 10, 2010)
Central Excise – Letter of Deputy Commissioner communicating Commissioner’s decision to reject application for remission of duty, appealable to CESTAT – Matter remanded to Commissioner to decide the issue following principles of natural justice
2010-TIOL-1261-CESTAT-AHM

M/s Doshi Ion Exchange & Chemical Industries Ltd Vs CCE, Ahmedabad (Dated: July 13, 2010)

Central Excise – Eligibility of exemption Notification No. 6/02-CE for water treatment plants and reverse osmosis plants – S. No. 237 of Notification No. 6/02-CE applicable only to specified non-conventional energy devices/systems – Benefit of duty exemption not available – Since Appellate Commissioner has set aside demand invoking extended period and issue being subject matter of dispute before Tribunals, penalties liable to be set aside

[2010-TIOL-1260-CESTAT-DEL](#)

CC & CCE, Raipur Vs M/s HEG Ltd (Dated: June 23, 2010)

Central Excise – CENVAT Credit – Credit on repair and maintenance of power plant, Insurance of cars and two wheelers, cleaning services, rent a cab service, commission on sale service, Mobile phone service is admissible – Credit of Security service used at a place other than factory is not admissible.

[2010-TIOL-1259-CESTAT-DEL](#)

CCE Vs M/s Core Fabs Project (P) Ltd (Dated: June 23, 2010)

Central Excise – CENVAT Credit on plates, angles, channels used for supporting structures and furnace stands – Credit is not admissible in view of the Larger Bench decision in case of M/s Vandana Global Ltd – However, the question of imposition of penalty does not arise.

[2010-TIOL-1256-CESTAT-MUM](#)

CCE, Thane Vs The Tiger Steel Engineering (I) Pvt Ltd (Dated: July 8, 2010)

Rule 5 of CCR, 2004 - Term 'export' used in Rule 5 of the CENVAT Credit Rules, 2004 stands for 'export', which is 'physical export' out of the country, envisaged under the Customs Act - anybody other than SEZ unit can not be allowed to claim any benefit under the SEZ Act/Rules - Respondent cannot be held to be entitled to refund of accumulated CENVAT Credit on the inputs used in or in relation to the manufacture of the 'pre-fabricated buildings' supplied by them to the SEZ units – Revenue appeals allowed

[Also see analysis of the Order](#)

[2010-TIOL-1255-CESTAT-BANG](#)

M/s Nisha Cements Vs CCE, Calicut (Dated: May 20, 2010)

Central Excise – Allegation of clandestine manufacture and clearance of cement – Order passed by lower appellate authority confirming duty demand by neither addressing various grounds raised by assessee nor discussing case laws cited and without giving proper findings thereon, not sustainable – Impugned order set aside and matter remanded

[2010-TIOL-1251-CESTAT-BANG-LB](#)

M/s Roys Industries Ltd Vs CCE, Hyderabad (Dated: September 14, 2010)

Central Excise – Valuation – RSP - pet jars/ poly bags containing individual pieces of Eclairs weighing less than 5.5. gms. each – assessment to be under Section 4A – In view of the finding of fact by the referral Bench in this case that the impugned poly packs and pet jars are multi-piece retail packages and the total weight of the pieces in such packages exceed 20 gms, the exemption under Rule 34(b) is not applicable and consequently, the assessment is required to be done applying provisions of Section 4A.

[Also see analysis of the Order](#)

[2010-TIOL-1250-CESTAT-MAD](#)

M/s Madras Cements Ltd Vs CCE, Trichy (Dated: June 22, 2010)

Central Excise – CENVAT Credit – No credit is required to be reversed on the paper bags damaged in the course of packing Cement – Impugned order is set aside.

[2010-TIOL-1244-CESTAT-MUM](#)

M/s Allovers And Lace Pvt Ltd Vs CCE, Pune (Dated: August 11, 2010)

Mere fact that the order of the appellate authority is not “acceptable” to the department is in itself an objectionable phrase for not following it unless its operation has been suspended by a competent Court - If this healthy rule is not followed, the result will only be undue harassment to assessee and chaos in administration of tax laws.

[Also see analysis of the Order](#)

[2010-TIOL-1243-CESTAT-MAD](#)

CCE, Tiruchirapalli Vs M/s Maris Spinners Ltd (Dated: March 26, 2010)

Central Excise – Used capital goods removed from the factory – Payment of duty on depreciated value is acceptable – No merit in revenue's contention to demand duty equal to the credit availed.

[2010-TIOL-1240-CESTAT-DEL](#)

M/s M M Dyeing & Finishing Mills Pvt Ltd Vs CCE, Ludhiana (Dated: April 9, 2010)

Central Excise – Eligibility of Notification No. 14/2002-CE for processed knitted fabrics of man made fibre/yarn manufactured out of grey fabrics – If appellant is an independent processor engaged in manufacture of knitted fabrics using unprocessed fabrics acquired from outside, presumption regarding its duty paid character would be available in terms of Explanation II thereof, but will be rebuttable if there is evidence indicating that such unprocessed fabrics are non-duty paid, concessional rate of duty would not be available in respect of processed fabrics in such cases – On the contrary, if appellant is a composite mill or a processor engaged in manufacture of fabrics from yarn/fibre stage, Explanation VII thereof would be applicable and conditions for concessional rate of duty on processed fabrics will be treated as satisfied if yarn or fibre from which grey fabrics are manufactured, is duty paid – SCN or Orders passed by lower authorities unclear on status of appellant – Matter remanded to original authority for de novo adjudication

[2010-TIOL-1239-CESTAT-DEL](#)

M/s Sri Sai Enterprises Vs CCE, New Delhi (Dated: July 1, 2010)

In a case where the assessee himself admits certain basic facts which lead to clear conclusion about clandestine manufacture and clandestine removal of the goods from the factory, onus obviously shifted upon the assessee to disprove the facts established by the Department on the basis of admissions made by the assessee – Demand upheld

[Also see analysis of the Order](#)

[2010-TIOL-1238-CESTAT-BANG](#)

CCE, Belgaum Vs M/s Encop Wires (Dated: May 24, 2010)

Central Excise – Inputs used in job work undertaken in terms of Notification No. 214/86-CE as well as manufacture of final products – Credit not deniable on inputs used in job work – No infirmity in orders passed by lower authorities

[2010-TIOL-1233-CESTAT-MUM](#)

Ambaji Metal Industries Vs CCE, Pune-II (Dated: July 21, 2010)

Second stage dealer issuing CENVATable invoices in October, 2004 without physically supplying goods to manufacturer – Penalty u/r 25 of the CER, 2002 not imposable

[Also see analysis of the Order](#)

[2010-TIOL-1232-CESTAT-BANG](#)

M/s Praga Tools Ltd Vs CCE, Hyderabad (Dated: May 13, 2010)

Central Excise – Refund claim of excess duty paid on inflated turnover without manufacturing any final products – Assessee being a PSU, lower authorities have not considered CAG report on inflated turnover figures appended to balance sheet and revised figures declared to Income Tax and Sales Tax authorities – Since excise duty is payable only on manufacture, matter remanded to original authority for de novo consideration by following principles of natural justice – Impugned orders set aside

[2010-TIOL-1231-CESTAT-MAD](#)

M/s Rajyalakshmi Machine Works Pvt Ltd Vs CCE, Coimbatore (Dated: April 23, 2010)

Central Excise – Default in payment of education cess – Provisions of Rule 8 of the Central Excise Rules, 2002 are not attracted for delay in payment of Cess as Rule 2 (e) defined duty as duty payable under Section 3 of the Act, but Cess is payable under Section 91 of the Finance Act, 1994.

[2010-TIOL-1226-CESTAT-MAD](#)

M/s Rohini Mills (P) Ltd Vs CCE, Chennai (Dated: May 28, 2010)

Central Excise – Interest under Section 11AA of the Central Excise Act – Liability to pay interest starts from the date of determination of duty liability by the original authority – Contention that interest starts after the order of Supreme Court confirming the demand is not sustainable.

[2010-TIOL-1225-CESTAT-MAD](#)

M/s Sakthi Sugars Ltd Vs CCE, Salem (Dated: April 29, 2010)

Central Excise – Appeal before the Commissioner (Appeals) – Dismissal of appeal on the ground of expiry of the statutory period of limitation – The appeal has been wrongly dismissed as time barred as the date of filing of the appeal or the date of receipt of the order in challenge has to be excluded from the computation of period of limitation – matter remanded.

[2010-TIOL-1222-CESTAT-MAD](#)

M/s Win Enterprises Vs CCE, Chennai (Dated: June 16 2010)

Central Excise – Manufacture – Whether the process of cutting of matting in roll form and stitching the edges so as to convert them into floor mats would amount to manufacture – Matter referred to Larger Bench in view of conflicting decisions.

[Also see analysis of the Order](#)

[2010-TIOL-1221-CESTAT-MAD](#)

M/s Madras Cements Ltd Vs CCE, Trichy (Dated: June 23, 2010)

Central Excise – CENVAT Credit – Credit on supplementary invoices - There is no dispute that the additional duty demand was confirmed against the supplier manufacturer only well after the assessee had taken the credit on the strength of the supplementary invoices issued by the manufacturer - Therefore, supplementary invoices on the strength of which the disputed credit was taken cannot be considered as in-eligible document and the restriction contained in Rule 9(1) (b) of the CENVAT Credit Rules 2004 is not attracted.

[2010-TIOL-1220-CESTAT-BANG](#)

CCE, Hyderabad Vs M/s Endeavour Industries Ltd (Dated: March 12, 2010)

Central Excise – Refund of balance amount of CENVAT credit lying in the books after closure of factory to be made in cash – No infirmity in impugned order of Appellate Commissioner

[2010-TIOL-1212-CESTAT-AHM](#)

M/s Surbhi Textile Mills Vs CCE, Surat-I (Dated: May 14, 2010)

Central Excise – Liability to pay AED (TTA) when assessee opts for Notification No. 33/2001-CE issued under Rule 15 of CER, 2002– In absence of any specific exemption notification, assessee liable to pay AED (TTA) – As issue involves interpretation of law,

penalty not leviable, liable to be set aside
2010-TIOL-1211-CESTAT-KOL
M/s Tata Motors Ltd Vs CCE, Jamshedpur (Dated: February 16, 2010)
Central Excise – CENVAT Credit denied on the ground that vendor was under investigation for clandestine removal and on other minor grounds like defective invoices – Order denying credit set aside but order relating to verification of genuineness of documents upheld – Penalties set aside
2010-TIOL-1210-CESTAT-BANG
Electronics & Controls Power Systems Pvt Ltd Vs CCE, Bangalore (Dated: June 9, 2010)
Central Excise – Valuation – Value of bought out items viz., batteries supplied separately to buyers of UPSS to be included in value of UPSS – Plea for reference to Larger Bench not tenable – Appeal devoid of merits, liable to be rejected
2010-TIOL-1205-CESTAT-MUM
M/s Videocon Industries Ltd Vs CCE & CC, Nagpur (Dated: July 19, 2010)
Proceedings beginning from application for remission stand on wrong premise – Remission u/r 21 of the CER, 2002 does not apply to inputs in Work in Progress (WIP) – Application for remission, O-in-O and related Appeal dismissed as not maintainable.
Also see analysis of the Order
2010-TIOL-1202-CESTAT-AHM
M/s Sitaram Printing & Processing Pvt Ltd Vs CCE, Ahmedabad (Dated: May 24, 2010)
Central Excise – Fixation of annual production capacity of independent textile processor – It is settled law that gallery portion not to be considered for fixing APC and even if APC fixed was not challenged, gallery not a basis for determination of APC – Matter remanded for determining duty liability excluding gallery portion

[2010-TIOL-1201-CESTAT-AHM](#)

M/s Tejpal Paper Mills Limited Vs CCE, Ahmedabad (Dated: July 14, 2010)

Central Excise – Default in fortnightly payment of duty under Rule 8 of CER, 2002 entails penalties only under the Rules and not Section 11AC of the Act – Penalty reduced from Rs. 2.5 lakhs to Rs. 5000 in terms of Rule 27 of CER

[2010-TIOL-1198-CESTAT-DEL](#)

CCE, Allahabad Vs M/s HI -Tech Carbon (Dated: September 7, 2010)

Central Excise - Audit finds short payment of Rs 437 - Assessee promptly pays up - Revenue after four years finds that no interest was paid on the sum short paid - An interest of Rs 14 demanded by issuing SCN - penalty under Sections 11AC, Rules 25 and also CCRs imposed - CIT(A) sets aside the order - Committee of Commissioners reviews the order in favour of filing appeal - held, case dismissed as there is no application of mind either by the Revenue or by the Committee of Commissioners - Copy to be marked to the CBEC Chairman.

[2010-TIOL-1194-CESTAT-AHM](#)

M/s Transformers & Rectifiers Vs CCE, Ahmedabad (Dated: May 20, 2010)

Central Excise – CENVAT Credit – Manufacturer not precluded from taking CENVAT credit after one year from date of issue of documents – Impugned order denying credit set aside

[2010-TIOL-1193-CESTAT-MAD](#)

M/s The Bharat Steel Industries Vs CCE, Chennai (Dated: March 31, 2010)

Central Excise – Penalty under Section 11 AC - Since, the requirement of Rule 96 ZP is not fulfilled, nor the ingredients of Section 11AC are present, the original authority was justified in not imposing any penalty on the appellant assessee. The order passed by the lower appellate authority imposing a penalty of Rs. 1,55,000/-, which has no basis in law is set aside, the order of the original authority not imposing penalty is upheld.

[2010-TIOL-1192-CESTAT-MAD](#)

M/s TVS Srichakra Ltd Vs CCE, Madurai (Dated: May 11, 2010)

Central Excise – Classification - Classification of waste of rubberized tyre cord warp sheet of high tenacity yarn – Goods rightly classifiable under Chapter Heading 59.06.

[2010-TIOL-1191-CESTAT-DEL](#)

CCE, Ludhiana Vs M/s Narain (Dated: May 26, 2010)

Issue of cenvatable invoices without supply of goods by registered dealer – argument that the broker might have diverted the goods not tenable as registered dealer was in the know of these facts – Penalty rightly imposable u/r 173Q(1)(bbb) of CER, 1944

[Also see analysis of the Order](#)

[2010-TIOL-1190-CESTAT-AHM](#)

M/s Prime Woven Ltd Vs CCE, Vapi (Dated: May 14, 2010)

Central Excise – Demand of CENVAT Credit availed on HDPE bags rejected and returned by buyers – As per Rule 16(2) of CER only when rejected goods are subjected to process which does not amount to manufacture, manufacturer required to pay amount equal to CENVAT Credit taken when goods are returned – Categorical finding of original authority that process undertaken by appellant amounted to manufacture, not challenged by Revenue in appeal and no dispute with regard to duty paid on final products – Impugned order liable to be set aside

[2010-TIOL-1189-CESTAT-MAD](#)

M/s Icon Household Products Pvt Ltd Vs CCE, Coimbatore (Dated: May 17, 2010)

Central Excise – Stay / Dispensation of pre-deposit – Premix for mosquito coils – Prima facie, the activity of mixing different ingredients which resulted in the pre mix amounts to manufacture – Pre deposit ordered.

[2010-TIOL-1183-CESTAT-MAD](#)

M/s Larsen & Toubro Ltd Vs CCE, Pondicherry (Dated: May 6, 2010)

Central Excise – Extra duty demanded paid by debiting the CENVAT account – No case to demand interest as the appellants had sufficient credit in their CENVAT account.

[2010-TIOL-1181-CESTAT-MUM](#)

Niphad SSK Ltd VsCCE, Nasik (Dated: June 30, 2010)

If there is any conflict between the Tribunal's decision and the Board's clarification, the former will prevail – existence of the sugar and distillery divisions as two distinct units within the same factory would not ipso facto disentitle the assessee – availment of duty paid on Molasses for payment of duty on Sugar not barred

[Also see analysis of the Order](#)

[2010-TIOL-1180-CESTAT-MAD](#)

Premier Polytronics Pvt Ltd Vs CCE, Coimbatore (Dated: May 18, 2010)

Central Excise – 100% EOU – Clearance of cotton waste and yarn in DTA – The benefit of Notification No 74/2003 CE(NT) dated 25.9.2003 is available to the assessee – Impugned order set aside.

[2010-TIOL-1179-CESTAT-DEL](#)

M/s Greenply Industries Limited Vs CCE, Jaipur (Dated: March 15, 2010)

Central Excise – When duty paid capital goods received in 1998 are cleared in October 2006 after being put to use, actual credit availed at the time of receipt need not be reversed, duty paid on depreciated value upheld – Tribunal decisions in *Geeta Industries Pvt Ltd* = [2010-TIOL-293-CESTAT-DEL](#) and *Cummins India Limited* [2007-TIOL-1620-CESTAT-MUM](#) followed – CESTAT LB decision in *Modernova Plastyles Pvt Ltd* [2008-TIOL-1771-CESTAT-MUM-LB](#) distinguished – Impugned order set aside

[2010-TIOL-1176-CESTAT-MUM](#)

CCE, Mumbai Vs Special Steel Ltd (Dated: August 4, 2010)

Valuation - Clearance to sister concerns at lower rates when compared to price charged to independent buyers - Neither the questions of facts nor any anticipated question of law would have any bearing on Revenue inasmuch as any outcome of this case will not detract from the revenue neutral situation – Appeal disposed of without expressing any opinion on questions of fact/law

[Also see analysis of the Order](#)

2010-TIOL-1172-CESTAT-MAD
CCE, Pondicherry Vs M/s Jeevan Diesels & Electricals Ltd (Dated: April 9, 2010)
Central Excise – DG sets brought from another unit and mounted on trailers – Duty paid on higher value than the DG Sets' value – No case for any further duty demand or payment of interest.
2010-TIOL-1169-CESTAT-MUM
M/s Metal Concepts (India) Vs CCE, Belapur (Dated: July 19, 2010)
Each person has to defend their own case and there is no provision in the Act that appeals shall lie before the same authority under a common show-cause notice – appellant to defend their own case and not take shelter of others on legal issue - appeals against order of Commissioner(A) relating to rebate of duty is not maintainable
2010-TIOL-1168-CESTAT-MAD
CCE, Chennai Vs Eveready Industries India Ltd (Dated: May 11, 2010)
Central Excise – Stock Transfer of zinc cans, zinc offcut / scrap to another unit of the assessee - Assessee's submission that method prescribed in CAS-4 has been followed is not controverted by Revenue – No merit in revenue's appeal.
2010-TIOL-1167-CESTAT-AHM
M/s Gujarat Narmada Fertilizers Company Limited Vs CCE, Vadodara (Dated: July 14, 2010)
Central Excise – Valuation – Allegation of undervaluation of finished goods manufactured and cleared to subsidiary company – When assessee deposits duty and contests liability imposed on them in terms of Rule 8 of Valuation Rules, findings of Commissioner that issue is a case of short payment / non-payment of duty coming under purview of Section 11A (2B) not sustainable – Commissioner having given a finding that there is no suppression or mis-declaration of facts, invocation of longer period also not sustainable – Impugned order set aside – Impugned order set aside
2010-TIOL-1164-CESTAT-MAD
JSW Steel Ltd Vs CCE, Salem (Dated: May 10, 2010)

Central Excise – CENVAT Credit – lancing pipes used for feeding of oxygen into the blast furnace are to be treated as inputs only and there is no restriction of credit in a financial year.

[2010-TIOL-1163-CESTAT-BANG](#)

CCE, Bangalore Vs M/s Multiplex Fertilizers (P) Ltd (Dated: May 24, 2010)

Central Excise – Classification of micro nutrient fertilizers and refund claim in pursuance of Tribunal's Final order determining classification – When order passed by Tribunal determining classification is set aside by Apex Court and remanded to original authority, refund proceedings consequent to such Tribunal order is a nullity

[2010-TIOL-1157-CESTAT-MAD](#)

CCE, Pondicherry Vs M/s Larsen & Toubro Ltd (Dated: April 7, 2010)

Central Excise – Remnants / end-bits of the inputs like angles and channels cleared – Department's contention that remnants are to be treated as "inputs cleared as such" and credit accordingly should have been reversed is not tenable.

[2010-TIOL-1156-CESTAT-AHM](#)

M/s Jay Bhawani Metal Industries Vs CCE, Surat (Dated: June 25, 2010)

Central Excise – Excess quantity of input copper rods found un-accounted for and shortage of finished products observed during preventive checks at job worker's premises – Initial adjudication/appellate proceedings against assessee dropped holding a view that quantities were duly entered in statutory records and stock taking done by officers was improper – SCNs re-issued alleging clandestine manufacture and removal of goods based on re-investigation which revealed copper rods being of Korean origin as against principal manufacturer's documentation showing that copper rods were of Australian origin – Department having not proved/established origin of goods, demand of duty alleging clandestine manufacture and removal not sustainable – As regards shortage of goods, no defence produced by assessee to negate the recording of shortages in panchanamas – Shortages also admitted by partner – Duty demand on shortages sustainable – When penalty is imposed under Section 11AC option to be provided to assessee to pay 25% penalty – In view of major demand being set aside, penalty on partner reduced to Rs. 15,000/-