

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
CIVIL APPEAL NO(s). 7099-7100 OF 2005

M/S. MADRAS CEMENTS LTD.

Appellant (s)

VERSUS

COMMNR OF CENTRAL EXCISE, CHENNAI

Respondent(s)

(With appln(s) for stay and office report)

WITH Civil Appeal NO. 7103 of 2005
(With appln (s) for stay and office report)

Civil Appeal NO. 7104 of 2005
(With appln (s) for stay and office report)

Civil Appeal NO. 7105 of 2005
(With appln (s) for stay and office report)

Civil Appeal NO. 7106-7107 of 2005
(With appln (s) for stay and office report)

Civil Appeal NO. 7108-7109 of 2005
(With appln (s) for ex parte stay and office report)

Civil Appeal NO. 7110-7111 of 2005
(With appln (s) for ex parte stay and office report)

Date: 20/07/2010 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE D.K. JAIN
HON'BLE MR. JUSTICE H.L. DATTU

For Appellant(s)

Mr. A.K. Ganguli, Sr. Adv.
Mrs. A.M.P. Latha, Adv.
Mrs. Prabha Swami, Adv.

For Respondent(s)

Mr. R.P. Bhatt, Sr. Adv.
Ms. Shipra Ghose, Adv.
Mr. Rajiv Nanda, Adv.
Mr. B. Krishna Prasad, Adv.

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UPON hearing counsel the Court made the following
O R D E R

Civil Appeals are disposed of in terms of
the signed order.

(VINOD LAKHINA)
Court Master

(OM PARKASH)
Court Master

(SIGNED ORDER IS PLACED ON THE FILE)
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 7099 - 7100 OF 2005

M/S MADRAS CEMENTS LTD.

...APPELLANT

VERSUS

COMMNR. OF CENTRAL EXCISE, CHENNAI

...RESPONDENT

[With C.A. Nos.7103, 7104, 7105, 7106-7107, 7108-7109 and 7110-7111 of 2005]

ORDER

We have heard learned counsel for the parties. With their consent, the appeals are disposed of in the following terms:

In all these cases, the only issue before this Court is with regard to the eligibility of MODVAT/CENVAT credit on inputs and capital goods used in mines.

In so far as the MODVAT/CENVAT credit on inputs (explosives, lubricating oils etc.) is concerned, the issue is squarely covered by the decision of this Court in the case of Vikram Cement Vs. CCE reported in 2006 (194) ELT 3. Therefore, the appeals, where credit on inputs is concerned, are allowed.

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As regards the MODVAT/CENVAT credit on capital goods, if the mines are captive mines so that they constitute one integrated unit together with the concerned cement factory, MODVAT/CENVAT

credit on capital goods will be available to the assessee. On the other hand, if the mines are not captive mines but they supply to various other cement companies of different assesseees, and it is found that the said goods were being used in the lime stone mines outside the factory of the assessee, MODVAT/CENVAT credit on capital goods used in such mines will not be available to the concerned assessee under the appropriate MODVAT/CENVAT Rules. In order to get a clear finding on the issue, all the matters are remanded to the respective original authorities for decision only on the above issue.

The appeals are disposed of accordingly with no order as to costs.

....., J.
(D.K. JAIN)

....., J.
(H.L. DATTU)

NEW DELHI
JULY 20, 2010