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HIGH COURT OF CHHATTISGARH, BILASPUR

Tax Case No. 27 of 2016

Commissioner, Central Excise, Customs & Service Tax, Bilaspur Chhattsigarh

---- Appellant

Versus

M/s Jindal Steel & Power Ltd. Kharsia Road Raigarh Chhattisgarh

---- Respondent

For Appellant : Shri Vinay Pandey, Advocate
For Respondent : None.

Hon'ble Shri Deepak Gupta, Chief Justice
Hon'ble Shri Justice Sanjay Agrawal

Order on Board

Per Deepak Gupta, Chief Justice

08/11/2016

1. This appeal by the Revenue is totally misconceived. The question before the Tribunal was that whether the hot metal transport vehicle, jumbo electric platform truck trailer assembly used for oil storage tank and ladle transfer car are part of the plant and machinery.

2. The Learned Tribunal held as a fact that the hot metal transport vehicle is not a vehicle which can be plied on the public road. The hot metal transport vehicle is used to transport the hot metal produced in blast furnace to the ladle. The jumbo electric operated platform truck is a special machine designed to carry nitrogen cylinder to gas boosting station of hot blast furnace. This contraption is also used to carry lime to pig casting machines and water treatment plant. The trailer assembly for oil storage tank is used so that the oil tank can be taken wherever it is required and the transformer oil can be injected in the machinery. All these items are integrally connected to the manufacture of excisable goods. These are part and parcel of the manufacturing process. They are vehicles which cannot be used anywhere outside the factory. They are not vehicles which

can be plied on public highways. They are not vehicles which can be registered under the Motor Vehicles Act. Therefore, they are the essentially plant and machinery. It is not necessary that every part of the plant and machinery be permanently attached to the earth. There can be moving plant and machinery also. In this behalf reference may be made to the judgment of the Apex Court in *Jayaswal Neco Ltd. v. Commissioner of Central Excise, Raipur, 2015 (319) E.L.T. 247 (S.C.)* decided on 13.3.2015, wherein the Apex Court has held that the railway track installed within the plant for transporting hot metal in ladle placed on ladle car from blast furnace formed integral part of process of manufacturing and hence even the railway track was capital goods, on which assessee was entitled to take credit of duty paid by them.

3. It is indeed surprising that the Commissioner of Central Excise, Customs & Service Tax, Raipur who was the party to the writ appeal in the Supreme Court even after the judgment passed by the Apex Court has filed the present appeal on 30.3.2016. The present case is squarely covered by the judgment of the Apex Court in *Jayaswal Neco Ltd. (supra)* and therefore, the appeal is dismissed.

Sd/-
(Deepak Gupta)
Chief Justice

Sd/-
(Sanjay Agrawal)
Judge

Anu