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HIGH COURT OF CHHATTISGARH, BILASPUR

TAX CASE NO. 54 of 2018

- M/s Jindal Steel & Power Ltd., a company incorporated under the provisions of Companies Act, through its authorized signatory Mr. B.S. Thakur, S/o Shri S.S. Thakur, aged about 50 years, PB No.16, Kharsia Road, Raigarh, Chhattisgarh - 496001.

---- Appellant

Versus

Principal, Commissioner, Central Tax and Central Excise Raipur, GST Bhawan, Tikrapara, Dhamtari Road, Raipur (Chhattisgarh) 492001

---- Respondent

For Petitioner	:	Shri Badrinarayan, Shri Karan Sachdev & Shri Romir S Goyal, Advocates
For Respondent	:	Shri Manish Sharma, Advocate.

Hon'ble Shri Ajay Kumar Tripathi, CJ
Hon'ble Shri Parth Prateem Sahu,J

Order on Board

Per Ajay Kumar Tripathi, CJ

22/11/2018

1. This appeal is preferred against the final order No.57645-57646/2017 dated 30.10.2017 passed in Excise Appeal No.56732/2017 by the Customs, Excise & Service Tax Appellate Tribunal, New Delhi.

2. Submission of learned counsel for the appellant is that the order of the Appellate Tribunal is sans any reason and it has not answered the questions raised on behalf of the appellant in relation to whether the Cess was payable on 'removal' of the specified goods from the mines or whether it is payable on 'raising' of the specified goods from the mines?

3. The Appellate Tribunal, however, by making an observation that the Cess

was payable on the specified goods on mere raising, has remanded the matter to the assessing authority for fresh adjudication.

4. We are of the opinion that the matter should be decided on all aspects of the submissions which may be made on behalf of the appellant or the revenue irrespective of what may have been observed in Para Nos.5 & 6 of the impugned order passed by the Appellate Tribunal, which reads thus:-

> "5. By considering the rival submissions and on perusal of the record, we are of the view that Rule 6 (1) of the Clean Energy Cess Rules, 2010 prescribed the manner for payment. Accordingly, Cess was payable on the specified goods when removed from the mines. So, when the goods were removed from the mines, cess is applicable. Hence, we are of the view that levy of Clean Energy Cess is applicable from 1.07.2010 and at the stage, when the coal was removed from the mines. Hence, Cess is to be paid on the quantity of coal raised from the mine. So, the claim of the appellant in this regard is rejected.
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> 6. With the above clarification, it is clear that Cess is chargeable w.e.f. 1st July, 2010 on the coal when it was removed from the mines as per Rule 6 (1) (supra). Other issues raised by the appellant will have to be decided afresh by the adjudicating authority in the light of above clarification/Data."

5. The appeal stands disposed off with the observation as above. The Commissioner, Excise shall not be influenced by the observation of the Tribunal noticed above.

Sd/-	Sd/-
(Ajay Kumar Tripathi)	(Parth Prateem Sahu)
Chief Justice	Judge

roshan/-