

Website : www.cestat.gov.in
Fax No. : 079-22683276 | Tel No. : 079-22683202

OUTWARD No. :11017(BR)
REGISTERED / AD / SPEEDPOST

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
WEST ZONAL BENCH : AHMEDABAD
O-20, NEW MENTAL HOSPITAL COMPOUND, MEGHANI NAGAR, AHMEDABAD-380016
LARGER BENCH MATTERS
HEARING NOTICE

Appeal No. : E/10026/2014-, E/10027/2014-

Appellant

Green Brilliance Energy Pvt Ltd
A-1/3&4, Bidc Estate,
Gorwa,
VADODARA
GUJARAT

Respondent

C.C.E. & S.T.-Vadodara-i
1ST FLOOR...CENTRAL EXCISE
BUILDING,
RACE COURSE CIRCLE,
VADODARA,
GUJARAT
390007

1. The issue involved in the matter is discussed in the MISC Order No.13697-13698 dated:21/07/2014(Copy enclosed). The matter is now listed for hearing before LARGER BENCH on 29/07/2015 at 10:30 Hrs.

2. You are hereby directed to make available one (1) sets of appeal/complete paper book and forward them to the registry of this Tribunal well before the date of hearing.

3. You are hereby also directed to supply one set of appeal/ paper book to the O/O Authorised Representative, CESTAT Ahmedabad and the Secretary, Bar Association CESTAT, Ahmedabad, directly under intimation to the registry of this Tribunal well before the date of hearing.

4. Take notice that the Larger Bench case^(s) mentioned above has been fixed for hearing on 29/07/2015 at 10.30 AM or any subsequent date thereafter as per the cause list or as may be convenient to the Hon'ble Bench of this Tribunal before CESTAT, West Zonal Bench - Ahmedabad, O-20 N.M.H. Compound, Meghani Nagar, Ahmedabad-380016

Encl.: Copy of the MISC Order No.13697-13698

Dated: 20/07/2015


Deputy/ Assistant Registrar
CESTAT - Ahmedabad

Copy To:

1. Registrar, CESTAT, New Delhi
2. Deputy Registrar/ Assistant Registrar, CESTAT, New Delhi, Mumbai, Chennai, Kolkata, Ahmedabad, Bangalore.
3. Secretary, Bar Association, New Delhi, Mumbai, Chennai, Kolkata, Ahmedabad, Bangalore.
4. O/O Authorised Representative CESTAT Ahmedabad.
5. Advocate^(s) / Consultant^(s) / Representative :-

TRIVEDI & GUPTA, ADVOCATES
G-1, JANAK APPTS., 9, SEVAK
NAGAR, B/H GAUTAM NAGAR,
RACE COURSE, VADODARA-
390007.

COURT

Application No. : E/Stay/10023,10024/2014
 Appeal No. : E/10026,10027/2014
 Arising out of : OIO No. VAD-EXCUS-001-COM-13&14-13-14 dt. 08.1.13
 Passed by : Commissioner of Central Excise & S.T., Vadodara

Appellant (s) : M/s. Green Brilliance Energy Pvt. Limited
 Represented by : Shri S.R. Dixit, Advocate
 Respondent (s) : Commissioner of Central Excise & S.T., Vadodara
 Represented by : Shri Jeetesh Nagori, A.R.

CORAM :

Mr. M.V. Ravindran, Hon'ble Member (Judicial)
 Mr. H.K. Thakur, Hon'ble Member (Technical)

Date of Hearing / Decision : 21.07.2014

ORDER No. M/13697-13698/2014 Dated 21.07.2014

Per : Mr. M.V. Ravindran;

When these two stay petitions were called out, both sides submits that the issue involved in these cases is regarding demand of duty on the goods which were cleared by an Export Oriented Unit to DTA without payment of duty.

2. On perusal of the records, we find that the appellant being an EOU had imported and procured locally inputs for manufacturing of goods for export, by availing benefit of Notification No. 22/2003-CE and 52/2003-Cus. There is a proviso in the said notifications, which requires an

M.V. Ravindran

assessee to discharge or return back the amounts of customs duty forgone by the department if the goods are cleared in DTA, without payment of duty. In the cases in hand, the facts are very clear as that there is statements the appellant has availed benefit of exemption Notification No. 06/2006-CE.

3. We find that learned counsel has placed reliance on the decision of the Tribunal in the case of *M/s. Synergies-Doorway Automative Limited & Ors* reported at *2008-TIOL-682-CESTAT-BANG*, wherein the very same notifications were interpreted and it was held that no duty can be demanded on the imported inputs, if there is DTA clearance claiming exemption. Learned departmental representative would bring to our notice another judgment in the case of *Indira Printers - 2010 (262) ELT 940 (Tri. Del.)*, wherein diagonally opposite view has been taken by the Tribunal.


4. On reading of the judgments, we find it so. Since on the same issue, two different views are expressed by the benches of the Tribunal, we deem fit to refer it to the Hon'ble President to consider whether a Larger Bench needs to be constituted to resolve the issue.

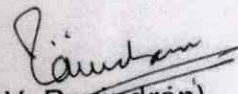
5. Since we are referring the issue to the Hon'ble President as to whether the issue needs to be resolved by a Larger Bench, we grant waiver of the amounts involved in these cases. Applications for the waiver of pre-deposit of the amounts involved are allowed and recovery thereof stayed till the disposal of the appeals.



6. Registry is directed to send copy of this order along with case laws to the Hon'ble President for due consideration *and order.*

(Dictated and pronounced in the Court)


(H.K. Thakur)
Member (Technical)


(M.V. Ravindran)
Member (Judicial)

..KL