IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL SOUTH ZONAL BENCH, CHENNAI

ST/167/2007 and ST/183/2007

(Arising out of Order-in-Original No. 27/COMMR/07[ST] dated 8.5.2007 passed by the Commissioner of Central Excise, Tirunelveli)

Commissioner of Central Excise, Tirunelveli
M/s. Hindustan Construction Co. Ltd. Appellants

Vs.

M/s. Hindustan Construction Co. Ltd.
Commissioner of Central Excise, Tirunelveli Respondents

Appearance

Shri S. Nagalingam, AC (AR) for Revenue
Shri Shyam Ramadi, Consultant for the Assessee

CORAM

Hon'ble Shri D.N. Panda, Judicial Member
Hon'ble Shri Madhu Mohan Damodhar, Technical Member

Date of Hearing / Decision: **05.01.2017**

Final Order No. 40023 - 40024/2017

Per D.N. Panda

ST/167/2007

Revenue's contention is that the appellant should not have been granted CENVAT credit on the tax paid, since the abatement was granted in terms of Notification No. 1/2006-ST dated 1.3.2006.

2. Against the above proposition, nothing could be shown by Revenue as to whether the credit, if any, legitimately earned prior to issuance of the Notification above shall debar the appellant to set off against future liability.

3. In absence of any mandate of the notification debarring appellant to set off previous earned credit prior to 1.3.2006, Revenue fails in its appeal, for which Revenue appeal is dismissed.

ST/183/2007

4. This appeal of appellant is against penalty. As we have decided the appeal of Revenue on merit, as above, against Revenue, there shall be no levy of penalty. Accordingly, penalty is waived and this appeal is allowed.

(Dictated and pronounced in open court)

09/01/17

6.1.2017

(MADHU MOHAN DAMODHAR)
Technical Member

(D.N. PANDA)
Judicial Member

Rex

Customs, Excise & Service Tax Appellate Tribunal

प्रमाणित प्रति/Certified True Copy
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चेन्नै/Chennai