

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
EXCISE APPEAL BRANCH

Date 06/11/2007

Appeal No. E/M/772/07 IN
E/3910/2004, 5434/2004

Assistant Registrar
C.E.S.T.A.T, New Delhi

To :
M/S K.E.I INDUSTRIES LTD
SP-920, INDUSTRIAL AREA, BHIWADI (RAJASTHAN)
301019

2. M/S. PLASTOMAT,
C-172, ROAD NO. 9-J,
VIKI-AREA, JAIPUR

M/S K.E.I INDUSTRIES LTD

C.C.E. JAIPUR I


Appellant

Vs

Respondent

MISC ORDER NO. 936/07-EX (C.B. JAIPUR)
548-49/07-EX dated 29-10-07

I am directed to transmit herewith a certified copy of Final order No. 548-49/07-EX dated 29-10-07
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944


Assistant Registrar
(Excise Appeal Branch)

Copy to :

1. Respondent

C.C.E. JAIPUR I

N.C.R.BUILDING, STATUE CIRCLE, "C" SCHEME,
JAIPUR 302005.

2. Adv. / Consult

MR. PANKAJ MALIK, ADV.,
207-208, SHREE COPAL TOWER, KRISHNA MARG,
C - SCHEME, JAIPUR - 1

3. S.D.R.

4. J.C.D.R.

5. Bar association, CESTAT, New Delhi

6. M/s. Deeparchi Publications, M-93, marg 43, saket, New

7. M/s Centax Publications (P) Ltd., 1512-E, Bhishm Pitamah

8. Excise & Customs cases, B-37, Sector -1, NOIDA - 201301

9. R. Venkatraman Constt. 44-B, S.Suncity, Ghaziabad -

10. Nidheshak publications, I.P.Estate, new Delhi


11. Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh,

12. Co, Law Institution

13. TAX INDIA, B-XI/8183, Vasant Kunj, New Delhi - 110070

14. Office Copy

15. Guard file


Assistant Registrar
(Excise Appeal Branch)

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

CIRCUIT BENCH AT JAIPUR

Appeal No. E/3910/04, E/5434/04 & E/M/772/07

Arising out of Order-in-Original No. 22/2004 dt.30/06/2004 &
No.20/2004 dt.27/5/2004

Passed by: Commissioner of Central Excise, Jaipur-I

For approval and signature:

Hon'ble Mr.Justice R.K.Abichandani, President

Hon'ble Mr. M. Veeraiyan, Member (Technical)

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1.	Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	:	No
2.	Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	:	No
3.	Whether their Lordships wish to see the fair copy of the order?	:	No
4.	Whether order is to be circulated to the Departmental authorities?	:	Yes

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Appellant/s

M/s.KE.I. India

M/s.Plastomat

Represented by

Sh.Pankaj Malik, C.A.

Vs.

Respondent/s

CCE, Jaipur-I

Represented by

Sh.S.L.Meena, SDR

CORAM:

MR.JUSTICE R.K.ABICHANDANI, PRESIDENT

MR. M. VEERAIYAN, MEMBER (TECHNICAL)

Date of Hearing: 29/10/07

Date of Decision: 29/10/07

Revised ORDER No. 548 - 549/2007 EX (C.B. JAIPUR)
Misc order No. 936/2007 EX

Per: Mr. M. Veeraiyan, Member (Technical)

Heard both sides.

2. The issue involved in both the appeals are identical and hence being disposed of by a common order. The appellants are drawing wires from wire rods and during the material period, they were paying duty on the final product, namely wires and consequently were availing cenvat credit on the duty paid on the inputs, namely wire rods and wires of ~~thinner~~ gauge. When judgement was rendered by the Hon'ble Supreme Court in the case of CCE Vs. Technoweld Industries[2003(155)ELT209(SC)] holding that the drawing of wires from wire rods would not amount to manufacture, Show cause notices were issued for earlier periods holding that the wires were not dutiable and that the assesseees need not have paid the excise duty on the wires and consequently their taking cenvat credit on wires rods and wires of higher gauge was not permissible.

3. Subsequently, the Central Excise Act was amended w.e.f. 9/7/2004 making specifically drawing of wires from wire rods as amounting to manufacture. In addition, Rule 16 of the Central Excise Rules, 2002 has been retrospectively amended to declare wire drawing units as

“assesseees” for the period 29/5/2003 to 8/7/2004 thus enabling them to avail cenvat credit in this period. This position has also been clarified by the Board vide their circular No.831/8/2006-CX dt.26/7/2006.

4. Ld. Advocate appearing for the appellant submits that duty paid by them on the wires now stands regularized as duty and therefore provisions of Section 11D will not be applicable.

5. In the light of the amendments to the Central Excise Act and the Modvat Rules and in the light of the Board's clarification cited above, we set aside the orders of the Commissioner and allow the appeals with consequential relief. Miscellaneous application is also disposed of.

(Dictated and pronounced in open court on 29/10/2007)

**(JUSTICE R.K. ABICHANDANI)
PRESIDENT**

**(M. VEERAIYAN)
MEMBER (TECHNICAL)**