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

Appeal No. E/4050/2003-4053/2003

Date 22/10/2007

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

To :  
MR. PURANALAL AGARWAL, MANAGING  
DIRECTOR, M/S. SAN  
9, IMAMBABA ROAD, NAGPUR  
440018

MR. PURANALAL AGARWAL, MANAGING  
DIRECTOR, M/S. SAN

Appellant

C.C.E. JAIPUR-I

Vs  
Respondent

I am directed to transmit herewith a certified copy of Final order No. *516-519/07-Ex* dated *16-10-07*  
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  
NCRB, STATUE CIRCLE, C-SCHEME, JAIPUR
2. Adv. / Consult  
MR. V. LAKSHMI KUMARAN  
B-6/10, SAFDARJUNG ENCLAVE, NEW DELHI-110029
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)

P.T.O.

1. M S KEC INTERNATIONAL LTD.

JHOTWARA, JAIPUR

2. MR. ASHU SINGH SHEKAWAT, SENIOR MANAGER, KEC INTER

JHOTWARA, JAIPUR

3. MR. SANJAY AGARWAL, MANAGING DIRECTOR SUNRISE STRUCTURAL & ENGG. LTD.,

9, IMAMBABA ROAD, NAGPUR

440018

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,**  
**PRINCIPAL BENCH, NEW DELHI**  
**COURT NO. II**

Excise Appeal No. 4050 - 4053 of 2003

[Arising out of Order-in-Appeal No. 480-483(SN)CE./JPR-I/ 2003 dated 30.9.2003 passed by Commissioner of Central Excise (Appeals I), Jaipur]

For approval and signature:

Hon'ble Mr. S.S. Kang, Vice President  
Hon'ble Mr. P.Karthikeyan , Member (Technical)

*S. S. Kang*

- 
1. Whether Press Reporters may be allowed to see :  
the Order for publication as per Rule 27 of the  
CESTAT (Procedure) Rules, 1982?
  2. Whether it should be released under Rule 27 :  
of the CESTAT (Procedure) Rules, 1982 for  
publication in any authoritative report or not?
  3. Whether Their Lordships wish to see the fair :  
copy of the Order?
  4. Whether Order is to be circulated to the :  
Departmental authorities?

} No

M/s. KEC International Ltd.  
Mr. Ashu Singh Shekhawat  
Mr. Sanjay Agarwal  
Mr. Puralal Agarwal

Appellant

Vs.

Commissioner of Central Excise  
Jaipur I

Respondent

Appearance: Shri Ravi Raghavan, Advocate for the Appellant  
Shri C.S. Rajput, DR for the Respondent

**CORAM:** Hon'ble Mr. S.S. Kang, Vice President  
Hon'ble Mr. P.Karthikeyan , Member (Technical)

Date of decision : 16.10.2007

*Final* ORDER NO. 516 To 519/2007EX

**Per S.S. Kang** (for the Bench):

Heard both the sides. The appellant filed this appeal against the impugned order, whereby the modvat credit amounting to Rs.19,01,470/- was disallowed and penalties were imposed. The appellants are engaged in the manufacture of transmission line towers and parts thereof. The appellant received certain inputs from M/s. Sunrise Structural and Engineering Ltd. under the cover of invoices and availed the credit. The case of the Revenue is that M/s. Sunrise Structural and Engineering Ltd. are not manufacturing any excisable goods. However, they were procuring the inputs from the manufacturers, who were paying the duty under Compounded Levy Scheme and supplied directly to the appellant under their invoice, therefore, the appellants are not entitled for the credit. The contention of the appellant is that M/s. Sunrise Structural and Engineering Ltd. is availing deemed credit in respect of inputs received by them and thereafter after doing certain processes, paid the duty at the rate of 16% and supply the goods to the appellant. The contention is that payment of duty at the rate of 16% by M/s. Sunrise Structural and Engineering Ltd. is not in dispute. The appellant submitted that the demand raised on the appellant on the same grounds was set aside by the Tribunal in the case of M/s. Sunrise Structural and Engineering Ltd. vs. CCE reported in 2004 (117) ECR 307.

2. The contention of the Revenue is that M/s. Sunrise Structural and Engineering Ltd. has only issued invoices without receiving the inputs and

*S.S. Kang*

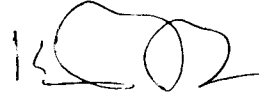
inputs were directly supplied to the appellants, who were paying the duty under Compounded Levy Scheme to the appellant. Therefore, the appellants are not entitled for the credit.

3. We find that this issue is already decided in favour of the appellant by the Tribunal in their own case ~~already~~ mentioned above. In view of the above decision of the Tribunal, the impugned order is set aside and the appeals are allowed.

(Dictated in the open Court)



( S.S. Kang )  
Vice President



( P.Karthikeyan )  
Member(Technical)

Dated: 16.10.07

ss