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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/3101/2007 & E/S/2785/2007

Date 25/02/2008

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

To :
M/S RINE ENGINEERING PVT. LTD.
PLOT NO. 73-A, B&C, HPSIDC, INDL. AREA, BADDI,
DISTT. SOLAN H.P.

M/S RINE ENGINEERING PVT. LTD.

C.C.E. CHANDIGARH

Appellant

Vs
Respondent

dated 04-2-08

I am directed to transmit herewith a certified copy of Final order No. 59/08, Excise
STAY ORDER NO. 188/08-EX,
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. CHANDIGARH

C.R. BUILDING, PLOT NO. 19, SECTOR 17-C,
CHANDIGARH 160017

2. Adv. / Consult


MR. ARUNKUMAR MAHAJAN

~~ROTHI NO. 70, NAG COLONY, SHIVALIK ENCLAVE, MANIMARA, CHANDIGARH~~
SH. BIPINGARG, ADV.
B-1/1289, VASANT KUNJ, N. DELHI-70

3. B.D.R.

~~ICDR~~

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. Taxmarm 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
West Block No. 2, R.K. Puram, New Delhi – 110 066.
Principal Bench, New Delhi**

COURT NO. II

**Excise Stay Application No. 2785 of 2007 in Appeal No.
3101 of 2007**

[Arising out of the Order-in-Appeal No. 165/CE/CHD/2007
dated 28/05/2007 passed by The Commissioner (Appeals),
Central Excise, Chandigarh.]

M/s Rine Engineering Pvt. Ltd.

Appellant

Versus

CCE, Chandigarh

Respondent

Appearance

Shri Bipin Garg, Advocate – for the appellant.

Shri Sanjay Kumar, Authorized Representative (DR) – for the
Respondent.

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

DATE OF HEARING : 04/02/2008.

Final Order No. 59/08-EX Dated: 4-2-08
stay order no. 188/08-EX

Per. S.S. Kang :-

Applicant filed this application for waiver of duty. We find that the issue is already settled by the decision of Hon'ble Supreme Court in the case of **Baroda Electric Meters Ltd. vs. Collector of Central Excise** reported in **1997 (94) E.L.T. 13 (S.C.)**, therefore the appeal is taken up for hearing.

2. The appellants are clearing the goods to railway, as per the tenders. The applicants are receiving the value of the goods as well as transportation charges. The case of the revenue is that applicants has paid less freight than charged from the revenue. The contention of appellant is that freight is separately charged and separately shown in the invoices. We find that this issue is already settled by the Hon'ble Supreme Court in the case of **Baroda Electric Meters Ltd. (Supra)**, the Hon'ble Supreme Court held that if the manufacture has made any profit by charging extra transport charges, the same cannot be treated to the assessable value of the goods manufacture and cleared by the applicant.

3. We find the ratio of the decision of Hon'ble Supreme Court is even applicable in respect of the new amended

definition of transaction value. In view of this, impugned order is set aside and appeal is allowed.

(Dictated and pronounced in open court)

(S.S. Kang)
Vice President

(P. Karthikeyan)
Member (Technical)

PK