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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/3694/2004 Date 07/03/2008

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

To :
M/S STEEL AUTHORITY OF INDIA LTD.
ISPAT BHAWAN, LODI ROAD
N. DELHI - 3

M/S STEEL AUTHORITY OF INDIA LTD. Appellant
Vs
C.C.E. RAIPUR Respondent

I am directed to transmit herewith a certified copy of Final order No. 79/08 Excise dated 6-2-08 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. RAIPUR
   CENTRAL EXCISE BUILDING, DHAMTARI ROAD,
   TIKRAPARA, RAIPUR 492001.
2. Adv. / Consult
   MR.B.L.NARSIMHAN
   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 Publictions (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, NEW DELHI
PRINCIPAL BENCH, NEW DELHI
COURT NO. II

Excise Appeal No. 3694 of 2004-Ex.

(Arising out of Order-in-Appeal No. 124/RPR-II/2004 dated 7.4.04 passed by the Commissioner, Central Excise, Raipur)

For approval and signature

HON'BLE MR. S.S. KANG, VICE PRESIDENT
HON'BLE MR. P. KARTHIKEYAN, MEMBER (TECHNICAL)

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 would 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.**	

M/s Steel Authority of India Ltd. — Appellant

Vs.

CCE, Raipur — Respondent

Appearance:
Shri Ravi Raghvan, Advocate - For appellant
Shri V.K. Agarwal, SDR - For respondent

CORAM:
HON'BLE MR. S.S. KANG, VICE PRESIDENT
HON'BLE MR. P. KARTHIKEYAN, MEMBER (TECHNICAL)

Date of Hearing: 6.2.2008

Final Order No. 79/08 dated 6/2/08

Per S.S. Kang:

Heard both sides.

2. The appellant filed this appeal against the impugned order whereby demand was confirmed after denying credit in respect of capital goods on the following grounds :-

(i) Duty paying documents were not submitted.

(ii) Duty paying documents are not in favour of the appellant.

(iii) Credit taken on original/extra copy of invoice.

(iv) Credit availed on quadruplicate copy of Bill of Entry.

3. The contention of the appellant is that the capital goods were received in their factory and during the relevant period Rule 57T (3) of Central Excise Rules provides that credit can be availed in respect of the capital goods received in factory on the strength of invoice of Bill of Entry. There is no provision under the Rule that for taking credit in respect of capital goods, the duplicate copy of invoice or triplicate copy of Bill of Entry is valid duty paying document. The appellant relied upon the decision of the Tribunal in the case of Timex Watches Ltd. Vs. CCE reported in 1998 (98) ELT 743.

4. The appellant submitted that in some copy of duty paying documents were submitted that the monthly returns however, at the time of verification they lost the duty paying documents. The contention is that in some cases capital goods were coming in the name of their job worker actually

the goods were used by the appellant in the manufacture of excisable goods.

5. The contention of the Revenue is that in respect of valid duty paying documents for the purpose of availing credit are duplicate copy of invoice and triplicate copy of Bill of Entry.

6. We find that the appellant availed credit on the strength of original/extra copy of invoice and on the strength of quadruplicate copy of Bill of Entry in respect of capital goods received in the factory. Rule 57T (3) of Central Excise Rules reads as under :-

> "No credit of specified duty shall be taken unless such capital goods are received in factory premises of the manufacturer under the cover of invoice or a Bill of Entry or any other document as may be specified under Rule 57G evidencing the payment of duty on such capital goods".

7. We find that in respect of capital goods, the rule provides that capital goods should be received in the factory under the cover of invoice or a Bill of Entry. In these circumstances, the denial of credit on the ground that the same was availed on the strength of original/extra copy of invoice or quadruplicate copy of Bill of Entry is not

sustainable. The demands of duty after denying the credit on these grounds is set aside.

8. In respect of denial of credit regarding which the appellant had not produced any duty paying documents or the documents produced by the appellant are not in their name. We find no merit in the contention of the appellant, therefore, demands confirmed by denying credit on these grounds are upheld.

9. As the major portion of the demand is set aside, therefore, we find it is not a case for penalty. The penalty imposed on the appellant is set aside. The appeal is disposed of as indicated above.

(Dictated & pronounced in open Court)

(S.S. KANG)
VICE PRESIDENT

(P. KARTHIKEYAN)
MEMBER (TECHNICAL)

RM