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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/969/2006 Date 08/04/2008

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

To :
C.C.E. JAIPUR I
N.C.R.BUILDING, STATUE CIRCLE, "C" SCHEME,
JAIPUR 302005.

C.C.E. JAIPUR I Appellant

Vs

SACO ALLOYS PVT. LTD. Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 134/08 **Excise** dated 28-2-08 passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(Excise Appeal Branch)

Copy to :
1. Respondent
   SACO ALLOYS PVT. LTD.
   SACO ALLOYS PVT. LTD.A-806-A, INDUSTRIAL AREA, BHIWADI, DISTT. ALWAR(RAJASTHAN)
2. Adv. / Consult SH. ATUL GUPTA, L.S, B-1/1289-A, VASANT KUNJ, N. DELHI-70
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
West Block No. 2, R.K. Puram, New Delhi – 110 066.
Principal Bench, New Delhi

COURT NO. II
Excise Appeal No. 969 of 2006

[Arising out of the Order-in-Appeal No. 459 (MPM)/CE/JPR-I/2005 dated 23/12/2005 passed by The Commissioner (Appeals-I), Central Excise, Jaipur.]

For Approval and signature :
Hon'ble Shri S.S. Kang, Vice President
Hon'ble Shri M. Veeraiyan, 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?	:	No
2.	Whether it would 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?	:	Yes
4.	Whether order is to be circulated to the Department Authorities?	:	No

CCE, Jaipur — Appellant

Versus

M/s Saco Alloys Pvt. Ltd. — Respondent

Appearance

Shri V.K. Choudhary, Authorized Representative (SDR) – for the appellant.

Shri Atul Gupta, C.S. – for the Respondent.

CORAM : **Hon'ble Shri S.S. Kang, Vice President**
Hon'ble Sh. M. Veeraiyan, Member (Technical)

DATE OF HEARING : 28/02/2008.

FINAL Order No. 134/08-EX Dated :

Per. S.S. Kang :-

Heard both sides. Revenue filed this appeal against the impugned order, whereby the benefit of Modvat credit in respect of certain GP-1s were allowed. The revenue issued the show cause notice to the respondent for denial of credit on the ground that in respect of 20 GP-1 in question, respondent had not received the inputs they had only received the duty paying document.

2. The allegation in the show cause notice was that M/s Nova Udyog Ltd. has issued only GP-1s to the dealers and no raw material was supplied by M/s Nova Udyog Ltd. as per the statement of their Authorised Representative. Adjudicating Authority denied the credit and imposed the penalty. Commissioner (Appeals) on appeal filed by respondent after

going through the evidence on record disallowed the credit in respect of duty paying document, where the vehicle number was not of truck. In respect of duty paying documents where the vehicle numbers were of trucks, the credit was allowed on the ground that the duty payment in respect of the inputs is not under dispute and the respondents received the inputs which were duly entered in the statutory record and the same were used in the manufacture of excisable goods.

3. Commissioner (Appeals) also held that no verification was conducted at the premises of respondent showing shortage of raw material. The contention of revenue is that as per the statement of Authorised Signatory of the supplier of inputs, the inputs were not supplied and vehicles numbers mentioned in the duty paying documents under which the inputs received by the respondents were not of trucks and the some of the dealers were non-existent. Further, we find that the respondent during investigation submitted that they had received the inputs which were duly entered in the statutory records and used in the manufacture of final product.

4. We find that in the impugned order, where the vehicle numbers in the duty paying documents were not trucks the credit was disallowed. In case when the inputs were received under invoices and vehicle number are of trucks the credit was allowed. The Commissioner (Appeals) after going through the evidence on record gave a finding that the inputs in question were received by the respondent under the duty paying documents and were duly entered in the statutory record. The same were used in the manufacture of final product which was cleared on payment of duty. Further in absence of verification of stocks at the recipient end to show that there was shortage of raw material. In view of this finding of fact which not ~~contributed~~ controverted by revenue in the present appeal. We find that no infirmity in the impugned order. The appeal is dismissed.

(Dictated and pronounced in open court)

(S.S. Kang)
Vice President

(M. Veeraiyan)
Member (Technical)

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