

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

Appeal No. E/3001/2006

Date 30/04/2008

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

To :
C.C.E.RAIPUR

DHAMTARI ROAD, TIKRAPAR, RAIPUR.

C.C.E.RAIPUR

Appellant

Vs

Respondent

M/S SWASTIK WIRES

Excise dated 21-4-08

I am directed to transmit herewith a certified copy of Final order No. 221/08
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944

Assistant Registrar

(Excise Appeal Branch)

Copy to :

1. Respondent

M/S SWASTIK WIRES

BHANPURI INDUSTRIAL AREA, RAIPUR (CG)

2. Adv. / Consult

SH. A.K. MISHRA, ADV.,
C/O RESPONDENT

3. S.D.R.

~~4. I.C.D.R.~~

5. Bar association, CESTAT, New Delhi

6. M/s. Deeparchi Publications, M-93, Marg. 46, Saket, New Delhi 110017

7. M/s Centax Publications (P) Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi -

8. Excise & Customs cases, B-37, Sector -1, NOIDA - 201301 Gautam Budh Nagar, (U.P.)

9. Raghuraman's 44-B, Regal Flat, Shipra Suncity, Indirapuram - 201010, Ghaziabad, DT, U.P.

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

11. Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh, New Delhi - 110026

12. Commercial Laws of India Pvt Ltd Post Bag No. 1033, No.70(Old No. 88), Thyagaraya Road, T. Nagar, Chennai 60017

13. Taxindiaonline.com Pvt.Ltd, 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. 3001 of 2006**

[Arising out of the Order-in-Appeal No. 117/RPR-I/2006 dated 20/06/2006 passed by The Commissioner (Appeals-I), Central Excise, Raipur.]

For Approval and signature :

Hon'ble Shri S.S. Kang, Vice President

Hon'ble Shri Rakesh Kumar, Member (Technical)

1. Whether Press Reporters may be allowed to see : *pu*
the Order for publication as per Rule 27 of the
CESTAT (Procedure) Rules, 1982?
2. Whether it would be released under Rule 27 of : *ho*
the CESTAT (Procedure) Rules, 1982 for
publication in any authoritative report or not?
3. Whether their Lordships wish to see the fair : *pu*
copy of the order?
4. Whether order is to be circulated to the : *pu*
Department Authorities?

CCE, Raipur

Appellant

Versus

M/s Swastik Wires

Respondent

Appearance

Shri V.K. Agarwal, Authorized Representative (DR) – for the appellant.

Shri A.K. Mishra, Advocate - for the Respondent.

CORAM: Hon'ble Shri S.S. Kang, Vice President
Hon'ble Sh. Rakesh Kumar, Member (Technical)

DATE OF HEARING : 21/04/2008.

FINAL Order No. 221 / 08 Dated : 21/04/2008

Per. S.S. Kang :-

The revenue filed this appeal against the impugned order, whereby the penalty imposed on the respondent was set aside on the ground that there is no demand made from the respondent in respect of Modvat credit, therefore, the imposition of penalties is not sustainable.

2. From the show cause notice, we find that demand in respect of the credit availed in the year 1993 and show cause notice was issued 27th July 2000 and in the show cause notice, there is no demand of duty. The allegation in the show cause notice is that applicant connived with the supplier of inputs by taking credit on the strength of duty paying documents without receiving the inputs. As in the show cause notice there was no proposal to deny the credit availed by the respondent in the year 1993 and the show cause notice was

issued in the year 2000 beyond the period of five years,
therefore, we find no infirmity in the impugned order, the
appeal is dismissed.

(Dictated and pronounced in open court)

(S.S. Kang)
Vice President

(Rakesh Kumar)
Member (Technical)

PK