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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/4743/2004 Date 19/06/2008

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

To :
C.C.E. JAIPUR-II
NCRB, STATUE CIRCLE, C-SCHEME, JAIPUR

C.C.E. JAIPUR-II Appellant
Vs
M/S ALCOBEX METALS LTD. Respondent

I am directed to transmit herewith a certified copy of **Final order** No.343/2008 Excise dated 10-6-08

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 ALCOBEX METALS LTD.
   JODHPUR (RAJASTHAN)
2. Adv. / Consult SH, ATUL GUPTA, C.S. C/O O.P. AGARWAL, 1326, 1ST B ROAD, ARDARPURA JODHPUR
3. S.D.R.
4. ~~J.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 Publictions (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)

CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
PRINCIPAL BENCH,
NEW DELHI, COURT NO.1

EXCISE APPEAL NO: 4743 OF 2004

Date of Hearing/Decision: 4.6.2008

[Arising out of order-in-appeal Nos.310-312(RM)CE/JPR-II/2004 dated 10.6.2004 passed by the Commissioner (Appeals), Customs & Central Excise, Jaipur]

Hon'ble Mr. Justice S.N. Jha, President
Hon'ble Mr. 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 should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	:	Yes
3. Whether Their Lordships wish to see the fair copy of the Order?	:	Seen
4. Whether Order is to be circulated to the Departmental authorities	:	Yes

CCE, Jaipur — Applicant
[Rep. by: Shri S.Kumar, DR]

Versus

M/s. Alcobex Metals Ltd. — Respondent
[Rep. Shri Atul Gupta, Company Secretary]

Coram: Hon'ble Mr. Justice S.N. Jha, President
Hon'ble Mr. M. Veeraiyan, Member (Technical)

FINAL **ORDER** 343/08-Ex.

Per M. Veeraiyan:

This is a Department's appeal against the order of the Commissioner (Appeals) No.310-312(RM) CE/JPR/2004 dated 10.6.2004.

2. None appears for the respondent. Heard the learned DR.

3\. a) In this case, M/s. Jain Metal Components (P) Ltd. (not an appellant before us) procures duty paid waste and scrap, takes credit of the duty paid; clears the said scrap and waste to the respondent M/s. Alcobex Metals Ltd. under Notification 214/86-CE for the purposes of manufacture of rods on job work basis; whatever scrap arising in the hands of this job worker is recycled; rods as such are returned to M/s. Jain Metal Components (P) Ltd.

b). M/s. Jain Metal Components (P) Ltd. used the rods for manufacture of various components and some waste and scrap is generated at the hands of M/s. Jain Meal Components (P) Ltd.; such scrap generated being reusable is sent back to Alcobex Metals Ltd., the respondent who manufactures rods out of the said scrap waste.

4\. The Department contends that the waste and scrap generated while manufacturing components out of rods supplied by Alcobex Metals Ltd. should be treated as final product at the hands of M/s. Jain Metal Components (P) Ltd. and duty shall be paid by M/s. Jain Metal Components before clearance to Alcobex Metals Ltd. It is also conceded that the duty so paid is available as credit to M/s. Jain Metal Components (P) Ltd. in case of waste and scrap sent under Notification 214/86 to Alcobex Metals Ltd. According to the Department, the rods manufactured out of waste generated as above, requires to pay duty at the hands of the job worker, M/s. Alcobex metals Ltd. and the duty paid shall be available as credit to M/s. Jain Metal Components (P) Ltd. for payment of duty on finished goods manufactured out of such rods. This exercise will continue only with the difference that every time the quantum of scrap and waste sent from M/s. Jain Metal Components (P) Ltd. would be a lesser quantity than what was sent initially

5. The original authority confirmed a demand of Rs.1,83,322/- in respect of rods manufactured out of waste and scrap which arose at the hands of M/s. Jain Metal Components (P)Ltd. while manufacturing components out of rods supplied by the said job worker.

6. In the peculiar facts and circumstances of the case taking note of the fact that the entire movements are initiated in terms of Notification No.214/86-CE, Commissioner (Appeals) dropped the proceedings in respect of demand from M/s. Alcobex Metals Ltd. The view that scrap and waste arising at the end of M/s. Jain Metal Components (P) Ltd. has to be treated only as final product and not as input for moving under Notification No.214/86-CE is not correct.

7. Therefore, we do not find any merit in the appeal by the Department. It is accordingly rejected.

[Dictated and pronounced in the open Court]

[Justice S.N. Jha]
President

[M. Veeraiyan]
Member (Technical)

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