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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/[illegible] [illegible]

Assistant Registrar
CESTAT, New Delhi

To
[illegible]HER MOTORS LTD
[illegible] 454775 DISTT. DHAR(MP)
EICHER MOTORS LTD

CCE INDORE
I am directed to transmit herewith a certified copy of **Final order No** [illegible] [illegible] 16-7-08
passed by the Tribunal under Section [illegible] Central Excises Act, 1944.

[illegible]

Copy to :
1. Respondent
CCE INDORE
[illegible] INDORE
[illegible]
[illegible] SRIDHARAN
[illegible]
2. CEP
~~[illegible]~~
Bar Association, CESTAT [illegible]
Mr. Deepak [illegible] New Delhi [illegible]
M/s Centax Publications [illegible]
Excise & Customs [illegible]
Raghuram [illegible]
Mahesh [illegible]
Taxmann [illegible]
Commercial Laws of India [illegible]
13. [illegible] New Delhi [illegible]
Office [illegible]
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[illegible]

16. [illegible]
PLOT NO. 20 [illegible] (MP)
17. ASHOK SHARMA
[illegible]

30-7-08
ISSUED ON
[illegible]

Without Green sheet

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
West Block No.2, R.K.Puram, New Delhi-110066

Court No.III

Date of hearing 15.7.2008

Central Excise Appeal Nos.1230 to 1232 of 2006

Arising out of the Order in original No.08/COMMR./CEX/IND/2006 dated 25.1.2006 passed by the Commissioner , Central Excise, Indore.

For Approval and Signature:

Hon'ble Mrs. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. M. Veeraiyan, Member (Technical)

1	Whether Press Reporter 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 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?	Seen
4	Whether Order is to be circulated to the Departmental authorities?	Yes

Appellants | | Respondent

M/s Eicher Motors Ltd. and others | vs. | C.C.E., Indore
M/s Bhagirath Coach & Metal Fabricators Pvt. Ltd.
Shri Ashok Sharma, Director

Appearance

Shri Ravi Raghvan, Advocate for the appellants and
Shri H.K. Thakur, Authorized Departmental Representative (Jt.CDR) for the Revenue

Coram: Hon'ble Mrs. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. M. Veeraiyan, Member (Technical)

FINAL Order No. 490-492/08-EX

Per Archana Wadhwa:

Learned Advocate Shri Ravi Raghvan appearing for the appellants submits that the issue was referred to the Larger Bench and stands answered by the Larger Bench against the assessee M/s Bhagirath Coach & Metal Fabricators Pvt. Ltd., on the issue of adoption of assessable value, while discharging the duty on motor vehicles manufactured by them. He refers to Misc. Order No.568-570/08-Ex dated 6th June, 2008 passed by the Larger Bench and fairly agrees that in view of the said judgment , the demand of duty against M/s Bhagirath Coach & Metal Fabricators Pvt. Ltd., is required to be confirmed. He however, prays for setting aside the penalty on the ground that the issue was not free from doubt and that is why, the matter was referred to Larger Bench, in view of the earlier conflicting decisions. By relying upon the Tribunal decision in the case of Heubach Colour Pvt. Ltd. 2007 (211) ELT 406 (Tri-Ahmd.), he submits that imposition of penalty upon all the appellants was not justified.

2. After hearing the learned Jt.CDR, we confirm the demand of duty against M/s Bhagirath Coach & Metal Fabricators Pvt. Ltd.. As regards the penalty imposed upon all the appellants , we agree with the learned Advocate that there being conflicting decisions ~~to~~ on which the matter was referred to the Larger Bench and no mala fide can be attributed to the assessee so as to impose penalty. Accordingly, while confirming duty demand, we set aside the penalties imposed upon all the appellants.

(The operative part of the order was pronounced in the open Court)

Certified True Copy
Asstt. Registrar
C.E.S.T.A.T.
... Block No 2
New Delhi

Sd/-
[Archana Wadhwa]
Member [Judicial]

Sd/-
[M. Veeraiyan]
Member [Technical]