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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/772 /2000&773/2000 Date 12/08/2008

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

2. M/S. PANKAJ INDUSTRIES,
C-16, INDL. AREA, NADARGANJ,
LUCKNOW

To :
M/S STAR STEELS
E-11/1 INDUSTRIAL AREA NADARGANJ, LUCKNOW

M/S STAR STEELS Appellant
Vs
C.C.E ALLAHABAD Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 592-593/08-EX **Excise** dated 5-8-08

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 ALLAHABAD

   38,M.G.MARG, CIVIL LINES, ALLAHABAD
2. Adv. / Consult SH. A.P. MATHUR, ADV.,
   167, TAGORE TOWN
   (NEAR KAMLA NEHRU HOSPITAL)
   ALLAHABAD
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. Easy Service Tax Online Dot Com Pvt. Ltd. 407A, Iscon Mall, Above Star India Bazar, Satellite Road, Ahmedabad - 15
15. Office Copy
16. 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. 772 & 773 of 2000**

[Arising out of the Order-in-Appeal No. 97 to 104-CE/KNP-II/99 dated 05/11/1999 passed by The Commissioner (Appeals), Central Excise, Allahabad.]

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 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 Department Authorities? :

M/s Star Steels & Ors. Appellant

Versus

CCE, Kanpur – II Respondent

**Appearance**

Shri A.P. Mathur, Advocate – for the appellant.

Shri H.K. Thakur, Authorized Representative (Jt. CDR) - for the Respondent.

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

**DATE OF HEARING : 05/08/2008.**

FINAL Order No. 592-593/08-EX Dated : ____________

**<u>Per. S.S. Kang :-</u>**

Common issue is involved, therefore, appeals are taken up together. Heard both sides. Appellant filed this appeal against the impugned order, whereby the benefit of Notification No. 202/88-CE was denied on the ground that the railway stocks, which was used as input in the manufacture of M.S. Bars and Rolls are non-dutiable, hence, the benefit of notification cannot be extended. We find that this issue is settled by the Hon'ble Supreme Court in the case of **Vivek Re-Rolling Mills vs. Collector of Central Excise** reported in **2002 (53) R.L.T. 888 (S.C.)**. The Hon'ble Supreme Court held that M.S. Bars, Rounds/Squares – manufactured from old and used railway materials are entitled for benefit of notification No. 202/88-CE. In view of the above decision of the Hon'ble Supreme Court, the impugned order is set aside. The appeals are allowed.

(Dictated and pronounced in open court)

**(S.S. Kang)**
**Vice President**

**(Rakesh Kumar)**
**Member (Technical)**

PK