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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/3822/2004 - EX[DB]

Date 14/10/2008

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

To :
M/S DIAMOND DYNAMICS INDIA PVT. LTD.
M/S DIAMOND DYNAMICS INDIA PVT. LTD., A-9
MAYAPURI, IND. AREA PHASE-II, NEW DELHI.
M/S DIAMOND DYNAMICS INDIA PVT. LTD.

Appellant
Vs
Respondent

C.C.E. DELHI-II

I am directed to transmit herewith a certified copy of **Final order No.** 744/08-EX **EX[DB]** dated 26-9-08

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. DELHI-II

THE COMMISSIONER OF CENTRAL EXCISE, DELHI I & II, CENTRAL REVENUE BUILDING, I.P. ESTATE, NEW DELHI.

2. Adv. / Consult
~~MR.BIPIN GARG~~
~~B-1/1289,A-VASANT KUNJ, NEW DELHI~~

SH, SUNIL KUMAR, ADV.,
U6, BANK ENCLAVE,
N. DELHI - 92

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 - 3
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
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-1
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

COURT – II

EXCISE APPEAL NO. 3822 of 2004

[Arising out of Order-in-Appeal No. 156/CE/2004 dated 07.06.2004 passed by the Commissioner (Appeals), Central Excise, Delhi-II, New Delhi]

For approval and signature:

Hon'ble Mr. S.S. Kang, Vice President,
Hon'ble Mr. 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 Departmental authorities?	

M/s. Diamond Dynamics India Pvt. Ltd. Appellants

Vs.

CCE, Delhi Respondent

Appearance:

Shri Sumit Kumar, Advocate for the Appellants;
Shri B.S. Suhag, DR, Departmental Representative, for the Revenue

Coram:

Hon'ble Mr. S.S. Kang, Vice President,
Hon'ble Mr. Rakesh Kumar, Member (Technical)

Date of Hearing: 25th September, 2008

FINAL ORDER NO. 744 / 08 **dated** ________

Per S.S. Kang:

Heard both sides. Appellants filed this appeal against the impugned order whereby the demand was confirmed after classifying spring manufactured by the appellants under Chapter 73 of the Tariff.

2. Contention of the appellants is that springs are specifically manufactured and designed to be used with agricultural machinery, therefore, are classifiable along with agricultural machinery under heading 84.32 of the Central Excise Tariff.

3. The appellants submitted that the manufacturer of the spring has given a certificate to the effect that the spring is designed to be used in agricultural machinery ~~cultivator~~, therefore, they are liable to duty under heading 84.32 of the Tariff. The appellants also pleaded that in case this argument is not accepted, then they are entitled for cum-duty price in view of the decision of the Supreme Court in the case of CCE, Delhi vs. Maruti Udyog Ltd., reported in 2002 (141) ELT 3 (SC).

4. Contention of the Revenue is that as per Section Note Springs are classifiable under Chapter 73.20 which specifically covers Springs and leaves for springs, of iron or steel.

5. We find that the appellants claimed the classification under Chapter 84 of the Tariff. As per ~~Section~~ Note 2(b) of Section XV ~~15~~ parts of general use are excluded from Chapter 84 of the Tariff and Springs and leaves are

parts of general use, therefore, they are rightly classifiable under heading 73.20 of the Tariff. Impugned order in this regard is upheld.

6. In view of the decision of the Supreme Court in the case of Maruti Udyog (supra) the appellants are entitled for cum-duty benefit. Appeal is disposed of as indicated above.

(Dictated & pronounced in the Open Court.)

(S.S. KANG)
VICE PRESIDENT

(RAKESH KUMAR)
MEMBER (TECHNICAL)

Dated 26th September, 2008

RK