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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/5767/2004-5768/2004 - EX[DB] Date 18/09/2008

Assistant Registra:
C.E.S.T.A.T, New Delhi

To :
M/S ALLIED INDL. ENTERPRISES
3-A, INDL. ESTATE, ADHARTAL, JABALPUR (M.P.)

2, M/S SINGHAL METAL POWER CO.
H.O. 657, GOLE BAZAR, JABALPUR (M.P.)

M/S ALLIED INDL. ENTERPRISES Appellant
Vs
C.C.E. RAIPUR Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 694-695/08-EX **EX[BR]** dated 8-9-08 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. RAIPUR
   DHAMTARI ROAD, TIKRAPARA
2. Adv. / Consult
   ~~MR.R.K. CHAUDHRY~~
   ~~B-1/1289-A, VASANT KUNJ, NEW DELHI-110070~~

SH, KAMAL KUMAR JAIN, PROP.
C/O M/S. SINGHAL METAL POWER CO.
H.O. 657, GOLE BAZAR JABALPUR(M

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

COURT – II

EXCISE APPEAL NO. 5767-5768 OF 2004

[Arising out of Order-in-Appeal No. 227-228-RPR-1-JBP-2004 dated 27.08.2004 passed by the Commissioner (Appeals-I), Central Excise, Raipur]

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. Allied Industrial Enterprises,
M/s. Singhai Metal Powder — Appellants

Vs.

CCE, Raipur — Respondent

Appearance:

Shri Kamal Kumar Jain, Proprietor for the appellants,
Shri S.N. Srivastava, Departmental Representative, for the Revenue

Coram:

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

Date of Hearing: 4th September, 2008

FINAL ORDER NO. 694-95/08-Ex **dated** ____________

Per S.S. Kang:

The appellants filed these appeals against the impugned order whereby demand was confirmed after clubbing clearances of M/s. Singhai Metal Powder Co. and M/s. Allied Industrial Enterprises for calculating the aggregate value of clearance for exemption under notification on the ground that both the factories belong to one manufacturer.

2. The contention of the appellants is that one factory is under the control of proprietor and other factory is under the control of partnership firm and both are independent and different identity. Therefore, clearances of both the companies cannot be clubbed.

3. Learned SDR submitted that the proprietor of Sanghai Metal Powder Co. Shri Kamal Kumar Jain has invested initial amount of Rs. 3 lakhs from H.U.F. fund and Shri Kamal Kumar Jain was Karta of H.U.F. and he has also taken loan from his son and daughter-in-law who are partner in other firm and Shri Kamal Kumar Jain is running day-to-day affairs of both the factories. Both the factories are running

from adjoining sheds and manufacturing the same goods and they have mutual and financial interest in each other.

4. We find that both the units are controlled by Shri Kamal Kumar Jain and funds of one units are being utilized by other unit. As there was unity of financial control and financial sourcing of both the units, hence, we find no merit in the contention of the appellants that both the factories are independent factories. Appeals are dismissed.

(Dictated & pronounced in the Open Court.)

(S.S. KANG)
VICE PRESIDENT

(RAKESH KUMAR)
MEMBER (TECHNICAL)

Dated 8th September, 2008

RK