TELEGRAM : CEGCANAL
Website : www.cestat.gov.in

REGISTERED / AD
Email : delhi@cestat.gov.in

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
EXCISE APPEAL BRANCH

Date 05/01/2009

Appeal No. E/5234/2004 - EX[DB] & E/5337/04

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

To :
C.C.E. LUDHIANA
F-BLOCK, RISHI NAGAR, LUDHIANA

Appellant

C.C.E. LUDHIANA

Vs

Respondent

M/S AMAR WHEELS PVT. LTD.

I am directed to transmit herewith a certified copy of **Final order No**.955-956/2008- **EX[DB]** dated 30/12/08

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 AMAR WHEELS PVT. LTD.
   C-194, PHASE VII, FOCAL POINT, LUDHIANA
2. Adv. / Consult SH. K.K. ANAND, ADV.,
   A-5, BASEMENT,
   LAJPAT NAGAR-III, N. DELHI-24

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-15
15 Office Copy
16 Guard file

Assistant Registrar
(Excise Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH - COURT NO. 1

Excise Appeal Nos. 5234 & 5337 of 2004

(Arising out of order-in-appeal No. 450/CE/Appl/Ldh/2004 dated 30.06.2004 passed by the Commissioner of Central Excise (Appeals), Ludhiana)

DATE OF HEARING : 29.12.2008
DATE OF DECISION : 29.12.2008

FOR APPROVAL AND SIGNATURE :

HON'BLE MS. JYOTI BALASUNDRAM, VICE-PRESIDENT
HON'BLE MR. M. VEERAIYAN, MEMBER (T)

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, Ludhiana .... **Appellant**
(Rep by Sh. C.S. Rajput, DR)

VERSUS

M/s Amar Wheels (P) Ltd. .... **Respondents**
(Rep. by Sh. K.K. Anand, Adv.)

CORAM : HON'BLE MS. JYOTI BALASUNDARAN, VICE- PRESIDENT
HON'BLE MR. M. VEERAIYAN, MEMBER (TECHNICAL)

FINAL ORDER NO. 955-956 / 08-EX

PER JYOTI BALASUNDARAM :

The Revenue is aggrieved by the orders of the Commissioner (Appeals) holding that waste and scrap arising in the course of manufacture of cycle parts exported and for which rebate was granted in terms of Notification No. 41/2001-CE(NT) dated 26.06.2001, were not liable to pay duty for the reason that SSI exemption was available to the assessees as their sales for the year 2001-02 and 2002-03 were below the ceiling limit prescribed in the relevant Notification. The period in dispute in Appeal No. E/5234/04 is August, 2002 to March, 2003; and the period in dispute in Appeal No. E/5337/04 is February, 2002 to July, 2002.

2. We have heard both sides. The Revenue relies upon clause 4(c) of Notification No. 41/2001-CE(NT) which stipulates that any waste arising from processing of materials may be removed on payment of duty as if such waste is manufactured or processed in the factory of the manufacturer or processor, to hold that waste was required to be cleared by the assessees only on payment of duty. On the other hand, we find that there is no bar in Notification No. 41/2001-CE(NT) to the availment of benefit to waste and scrap under any other Notification. In this case, there is no dispute that the assessees' value of clearances during the years in question were below the ceiling limit prescribed in the SSI exemption Notification and further, as pointed out in the cross-objection by the assessees, benefit of Notification No. 89/95-CE dated 18.05.1995 granting exemption from payment of duty on waste and scrap arising in the course of manufacture of exempted

goods is available to them as cycle parts exported by them are not liable to duty. Therefore, there is no error in the impugned orders so as to call for any interference therewith. We accordingly uphold the impugned orders and reject the appeals.

3. Cross-objections stand disposed of accordingly.

(Dictated and pronounced in the open Court on the 29th day of December, 2008)

(JYOTI BALASUNDARAM)
VICE-PRESIDENT

(M. VEERAIYAN)
MEMBER (TECHNICAL)

Golay