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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/5398/2004-5399/2004 - EX[DB] Date 16/12/2008

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

To :
C.C.E.COMMOISSIONERATE
CHANDIGARH
PLOT NO-19, SEC-17-C,CHANDIGARH

C.C.E.COMMOISSIONERATE
CHANDIGARH — Appellant

Vs

M/S SWARAJ AUTOMOTIVES LTD. — Respondent

I am directed to transmit herewith a certified copy of **Final order No**.930-931/2008- **EX[DB]** dated 04-12-08

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 SWARAJ AUTOMOTIVES LTD.
   FOCAL POINT,NABHA (PATIALA)
2. Adv. / Consult SH. B. L. NARSIMHAN, ADV.,
   B-6/10, S.J. ENC., N. DELHI-29

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)

~~M/S SWARAJ AUTOMOTIVES LTD.~~

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
COURT NO.II

E/Appeal No.5398-5399/2004 -Ex(Br)

(Arising out of order in appeal No. 591-592/CE/Chd/04 dated 17.8.04 passed by the Commissioner of Central Excise (Appeals), Chandigarh)

CCE, Chandigarh — Appellant
(Rep. by Shri C.S. Rajput, DR)

Vs

M/s Swaraj Automotives Ltd — Respondent
(Rep. by Shri B.L. Narsimhan, Advocate)

Coram: Hon'ble Mr.D.N. Panda, Judicial Member
Hon'ble Mr. Rakesh Kumar, Technical Member

Date of Hearing:17.11.08

FINAL Order No. 930 - 931 - /2008-Ex(BR)

Per D.N. Panda:

Both the appeals centre round the demand which arose from a common order in original dated 2.6.2004 raising duty demand of Rs.11,460/- in Appeal case No. E-5398/04 on the question of liability of duty on the scrap and similar such question is in dispute with demand of Rs.6,260/- in Appeal case No. 5399/04.

2. Learned DR appearing on behalf of Revenue submits that learned adjudicating authority on the facts considered the scrap arising in the course of manufacture to be dutiable but that was decided otherwise by the learned appellate authority. Therefore, revenue is aggrieved by such a decision relying upon the decision of the Hon'ble High Court Union of India Vs Grasim Industries Ltd. – 2008 (22() ELT 328 (Raj.) Revenue prays for reversal of decision of learned Appellate Authority below.

3. The respondent on the other hand has brought to our notice about the meager amount involved in the dispute and submitted that scrap has been generated in the course of manufacture. But Revenue failed to prove its marketability. Therefore, the learned appellate authority has allowed the appeal in favour of the respondents.

4. We heard both sides and perused the record. We find that a small amount of demand in involved in this appeal and unnecessary time would be wasted by us to go into the detailed facts. We noticed the facts that letter dated 8.2.2002 of Respondents showing generation of scrap was not gone into by the learned appellate authority and has failed to understand the entire facts. We are of the opinion that as the appeal is for a very small amount, it should be dismissed with liberty to Revenue to seek appeal remedy on the basis of judgment of Hon'ble High Court of Rajasthan if they are aggrieved in future. We, therefore, dismiss both the appeals of the revenue only because of negligible demand. We make it abundantly clear that we have not gone into the merits of these cases in Appeal before us in view of very low demand involved and we have not expressed our opinion. Since, this order has not touched merits of the case, this shall not be a precedent for any side in any other case in future.

(Order dictated and pronounced in the open Court).

(D.N. Panda)
Judicial Member

(Rakesh Kumar)
Technical Member

MPS*