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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/1030/2006 - EX[DB] Date 10/11/2008

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

To :
M/S KAMAL COACH WORKS PVT.LTD.
E-523,SITAPURA INDUSTRIAL AREA JAIPUR

M/S KAMAL COACH WORKS PVT.LTD. Appellant
Vs
C.C.E. JAIPUR I Respondent

I am directed to transmit herewith a certified copy of **Final order No**. 850/2008 **EX[DB]** dated 03-10-08 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. JAIPUR I
N.C.R.BUILDING, STATUE CIRCLE, "C" SCHEME, JAIPUR 302005.
2. Adv. / Consult
SH. A.N. HASKAR & SHEKHAR VYAS, ADV.,
34, BABAR LANE, FIRST FLOOR,
BENGALI MARKET, N.DELHI-1
3 C.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, NEW DELHI
PRINCIPAL BENCH, NEW DELHI
COURT NO. II

Excise Appeal No. 1030 of 2006

(Arising out of Order-in-Original No. 30/2005 dated 27.12.2005 passed by the Commissioner of Central Excise, Jaipur)

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 Kamal Coach Works Pvt. Ltd. — Appellant

Vs.

CCE, Jaipur — Respondent

Appearance:
S/Shri A.N. Haskar & Shekhar Vyas, Avocates - For appellant
Shri Surender Shah, DR - For respondent

CORAM:
HON'BLE MR. S.S. KANG, VICE PRESIDENT
HON'BLE MR. RAKESH KUMAR, MEMBER (TECHNICAL)

Date of Hearing: 3.10.2008

FINAL Order No. 850/08-EX dated............

Per S.S. Kang:

Heard both sides.

2. The appellant filed this appeal against the impugned order whereby demand is confirmed in respect of motor vehicles manufactured and cleared by the appellant.

3. The appellant before us raised the dispute only in respect of an amount of Rs.21,27,380/-. The credit has been availed in respect of 53 chassis received from Tata Motors. The appellant availed credit of the amount in dispute and subsequently the same were reversed on 31.8.2004 and in the relevant record the entry was made to the effect that Basic Excise Duty, credit on closing stock of 53 chassis during six months has been reversed back as the billing and calculation system to be changed with effect from 1.9.2004 as per the instructions of Tata Motors. Subsequently, appellant cleared 51 motor vehicles after fabrication out of the aforementioned 53 ~~on paid on the~~ chassis and case of the appellant is that the amount of Rs.21,67,476/- which is already reversed is to be adjusted is liable for adjustment against payment of duty. The Revenue rejected that contention on the ground that the amount in question has

been reversed on 31.8.2004 whereas the motors vehicles were cleared on subsequent dates.

4. The contention of the appellant is that for the period October to December 2004, the adjudicating authority allowed the adjustment of credit which was reversed prior to clearance of the motor vehicles but the same has been denied in respect of the amount in dispute. The contention is that earlier reversal was not for payment of duty on the same was only because there was change in billing and calculation system with effect from 1.9.2004, In these circumstances, the amount in question is liable to be adjusted against the demand.

5. The contention of the Revenue is that the amount in question has been reversed prior to the clearance of the motor vehicle, therefore, it cannot be said that the amount in question is reversed in respect of payment of duty on 51 motor vehicles, Therefore, demand was rightly made.

6. We find that in this case show-cause notice was issued demanding duty on the ground that the appellant cleared motor vehicles on payment of duty only on the part of cost of fabrication and mounting charges of bus bodies on chassis and not on the full value of the motor vehicles. The appellants are taking Cenvat credit of duty paid chassis. In these circumstances, the value of chassis of motor vehicle was required to be added for the purpose of ~~arrived~~ arriving at assessable value of motor vehicles. For this proposition, the appellant has no dispute. Only contention of the appellant before us is that there is dispute regarding Rs.21,67,476/-. This credit has been availed in respect of duty paid on ~~motor vehicles~~ chassis received from Tata Motors and this has been reversed on 31.8.2004 and at the time of reversal a specific entry has been made ~~than~~ that the same has been reversed as the billing pattern is being changed with effect from 1.9.2004. The contention is that appellants are entitled for this credit and the same can also be utilised for payment of duty. We find this requires verification, therefore, the dispute in respect of denial of

Credit of Rs.21,67,476/- is remanded back to the adjudicating authority to decide afresh after verification whether this reversal is in respect of duty payment or otherwise. The appeal is disposed of by way of remand as indicated above.

(Dictated & pronounced in open Court)

(S.S. KANG)
VICE PRESIDENT

(RAKESH KUMAR)
MEMBER (TECHNICAL)

RM