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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/4397/2004 - EX[DB]   Date 03/11/2008

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

To :
M/S R.P.G.TRANSMISSION LTD.
POST DEORI DISTT JABALPUR
M/S R.P.G.TRANSMISSION LTD.   Appellant
Vs
C.C.E BHOPAL   Respondent

I am directed to transmit herewith a certified copy of **Final order** No. 835/08- **EX[DB]** dated 15-9-08 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 BHOPAL
   HOSHANGABAD ROAD, 48, ADMINISTRATIVE AREA, AREA HILLS, BHOPAL (M.P.) 462011
2. Adv. / Consult
   MR.R. SANTHANAM
   C-3/210, JANAK PURI, NEW DELHI - 110 058.

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 – 110 066.
Principal Bench, New Delhi

COURT NO. II
Excise Appeal No. 4397 of 2004

[Arising out of the Order-in-Appeal No. 440/CE/BPL/2004 dated 21/06/2004 passed by The Commissioner of Central Excise (Appeals-II), Bhopal.]

For Approval and signature :
Hon'ble Shri S.S. Kang, Vice President
Hon'ble Shri 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 Department Authorities?	:

M/s R.P.G. Transmission Ltd. Appellant

Versus

CCE, Bhopal Respondent

Appearance

Shri R. Santhanam, Advocate – for the appellant.

Shri H.K. Thakur, Authorized Representative (Jt. CDR) - for the Respondent.

CORAM:**Hon'ble Shri S.S. Kang, Vice President**
Hon'ble Sh. Rakesh Kumar, Member (Technical)

DATE OF HEARING : 15/09/2008.

FINAL Order No. 835/08-EX Dated : ____________

Per. S.S. Kang :-

Applicant filed this appeal against the impugned order, whereby benefit of deemed credit on the ground that payment regarding the input purchase was made through the bank draft and not by cheque drawn on its own bank account.

2. The revenue wants to deny the credit in view of the explanation to the Notification No. 58/1997-CE dated 30/08/97.

3. Contention of appellant is that subsequently by Notification No. 2/98-CE dated 10/03/98, the Notification No. 58/97-CE was amended to the effect that the words "by cheque drawn on his own bank account or by bank draft or by banker's cheque" shall be substituted.

"for the words – "by cheque drawn on his own bank account";

4. The Commissioner (Appeals) in the impugned order held that the amended notification, is not clarificatory and is not retrospective hence the condition of amending notification are not applicable in the present case.

5. We find that by amending notification, the wording of explanation to the earlier notification was substituted and bank draft is also included as instrument for payment. There is no dispute in respect of the receipt of consideration by supplier of inputs. As the wording of the explanation to notification has been substituted by a notification, therefore, the Notification No. 2/98-CE is clarificatory in nature, therefore, the impugned order is set aside and the appeal is allowed.

(Dictated and pronounced in open court)

(S.S. Kang)
Vice President

(Rakesh Kumar)
Member (Technical)

PK