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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/5372/2004 - EX[DB] Date 05/01/2009

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

To :
M/S BHARAT STEEL ROLLING MILL(UNIT-1)U.P
MEERUT ROAD
MUZAFFARNAGAR U.P
251003

M/S BHARAT STEEL ROLLING MILL(UNIT-1)U.P Appellant
Vs
C.C.E.MEERUT-I Respondent

I am directed to transmit herewith a certified copy of **Final order No.03/2009** **EX[DB]** dated 1/1/09

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.MEERUT-I
MANGAL PANDAY NAGAR,MEERUT
250005
2. Adv. / Consult
~~MR.N.K ARORA~~
~~219, CIVIL LINES SOUTH MUZAFFARNAGAR(U.P)-251001~~
SH. RAVI RAGHVAN, ADV,
B-6/10, S.J. ENCLAVE,
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-15
15 Office Copy
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Assistant Registrar
(Excise Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH - COURT NO. 1

Excise Appeal No. 5372 of 2004

(Arising out of order-in-appeal No. 465/CE/MRT-1/2004 dated 19.07.2004 passed by the Commissioner of Central Excise (Appeals), Meerut)

DATE OF HEARING : 31.12.2008
DATE OF DECISION : 31.12.2008

FOR APPROVAL AND SIGNATURE :

HON'BLE MS. JYOTI BALASUNDRAM, VICE-PRESIDENT
HON'BLE MR. RAKESH KUMAR, 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

M/s Bharat Steel Rolling Mills .... **Appellant**
(Rep by Sh. Ravi Raghvan, Adv.)

VERSUS

CCE, Meerut-I .... **Respondent**
(Rep. by Sh. Arun Kumar, SDR)

CORAM : HON'BLE MS. JYOTI BALASUNDARAM, VICE- PRESIDENT
HON'BLE MR. RAKESH KUMAR, MEMBER (TECHNICAL)

FINAL ORDER NO. 03/2009- Ex.

PER JYOTI BALASUNDARAM :

In this case, the benefit of deemed credit in terms of Notification No. 29/2000-CE(NT) dated 31.03.2000 has been denied to the appellants herein on the ground that benefit was available only to inputs cleared from the input manufacturers on or before 01.04.2000 and not to inputs lying in stock with the appellants (re-rolling mills) as on that date, and further for the reason that the inquiry of the jurisdictional Range Office revealed that supplier of inputs had not discharged their duty liability ~~on~~ under the compounded levy scheme. On this basis, deemed credit of Rs. 10,34,083/- has been disallowed and a penalty of Rs. 5 lacs has been imposed upon the assessee.

2. We have heard both sides. We find that in the case of **J.M.G. Steel (P) Ltd. vs CCE, Patna,** 2004 (175) ELT 639, deemed credit has been held to be admissible to inputs lying in stock with re-rolling mills as on 31.03.2000. We also find that in the case of **Collector of Central Excise, Chennai vs Indus Steels & Alloys (P) Ltd.,** 2005 (184) ELT 178 (T), the Tribunal has held that actual payment of duty is not to be verified for the purpose of extending deemed credit under Notification No. 29/2000-CE(NT). In the present case, the invoices show that duty liability has been discharged by the input manufacturer either under Section 3A or Rule 96ZO(3). Therefore, both the objections

of the Revenue for extension of deemed credit are not sustainable. Accordingly, we set aside the impugned order and allow the appeal.

(Dictated and pronounced in the open Court on the 31st day of December, 2008)

(JYOTI BALASUNDARAM)
VICE-PRESIDENT

(RAKESH KUMAR)
MEMBER (TECHNICAL)

Golay