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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/3692/2004 - EX[DB] Date 11/02/2009

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

To :
M/S STEEL AUTHORITY OF INDIA LTD.
ISPAT BHAWAN, LODI ROAD, NEW DELHI.
110003

M/S STEEL AUTHORITY OF INDIA LTD. Appellant
Vs
C.C.E. RAIPUR Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 110/2009- **EX[DB]** dated 06-2-09 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. RAIPUR
   DHAMTARI ROAD, TIKAPARA RAIPUR (CHATTISGARH)
2. Adv. / Consult SH. RAVI RAGHVAN, ADV.
   B-6/10, S.J. ENC., N. DELHI-29

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-15
15 Office Copy
16 Guard file

Assistant Registrar
(Excise Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

COURT NO. II

Excise Appeal No. 3692 of 2004-Ex.

(Arising out of Order-in-Appeal No. 114/RPR-II/2004 dated 31.3.2004 passed by the Commissioner (Appeals), Central Excise, Raipur)

M/s Steel Authority of India Ltd. — Appellant

Vs.

CCE, Raipur — Respondent

Appeared for Appellant : Shri Ravi Raghvan, Advocate with Shri Raghuram Srinivasan, Advocate

Appeared for Respondent : Shri S.N. Srivastav, DR

Date of Hearing: 22.1.2009

CORAM: HON'BLE MR. D.N. PANDA, JUDICIAL MEMBER
HON'BLE MR. RAKESH KUMAR, TECHNICAL MEMBER

FINAL Order No. 110/09-EX dated............

Per D.N. Panda:

The only grievance of the Public Sector Appellant is that the documents were all along available at the time of purchase of capital goods to prove their identity and those were used in the manufacture of the goods of the appellant. Accordingly, when the purchase and use of the capital goods not being in dispute, the appellant should not suffer in absence of any enquiry or result of enquiry by the Revenue showing that the public sector appellant had entered into any questionable practice. Shri Ravi Raghvan is fair enough to agree that the documents in respect of claim of Rs.18,36,934/- involved in this appeal is not available and the appellant cannot also satisfy to the authority below as to its claim. Therefore extent of demand on such count sustains. But for demands of Rs.2,35,12,523/-, Rs. 12,25,096/- and Rs. 6,012/-, his prayer is that all these three claims are proved from record of the appellant showing use of capital goods. Therefore, technical difficulties should not stand as a bar or impediment to deny relief to the appellant.

2. Ld. DR submits that when the documents were not before the authority below, the appellant was bound to face the demand. He supports the order of the authority below.

3. We have heard both the sides.

4. We are fully satisfied that there is no contrary evidence as to purchase of the respective capital goods, movement thereof to the factory of the appellant and use of such capital goods in its factory. We appreciate the difficulties of both the sides and technicalities of the law. At the same time, we also appreciate that the niceties of the technicalities should not be barrier for rendering substantial justice. Therefore the appellant should get relief on account of demand of Rs.2,35,12,523/-, Rs.12,25,096/- and Rs.6,012/-.

5. In view of the aforesaid submission of ld. counsel that the appellant is unable to gather its document for the claim of

Rs.18,36,934/- we hold that the appellant shall not succeed against this claim.

6. We have noticed that penalty of Rs. One lakh was levied on the appellant. In view of substantial relief granted to the appellant as aforesaid, we waive imposition of penalty.

7. In the result, the appellant gets partial relief and the appeal is partly allowed.

(Dictated & pronounced in open Court)

(D.N. PANDA)
JUDICIAL MEMBER

(RAKESH KUMAR)
TECHNICAL MEMBER

RM