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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/3426/2004 - EX[DB] Date 11/02/2009

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

To :
STEEL AUTHORITY OF INDIA LTD.
STEEL AUTHORITY OF INDIA LTD. SR. MANAGER
(FIN-TAXATION) ROOM NO.-118, ISPAT BHAWAN
BHILAI
490001

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.** 111/2009- **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
THE COMMISSINER OF CENTRAL EXCISE BHAWAN, DHAMTARI ROAD, TIKARAPARA, RAIPUR, (CHATTISGARH)
2. Adv. / Consult SH. RAVI RAGHVAN, ADV., B-6/1B, S.J. ENCLAVE, 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. 3426 of 2004-Ex.

(Arising out of Order-in-Original No.20-31/DENOVO/COMMR/2004 dated 23.3.2004 passed by the Commissioner, Customs & 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......111/09-Ex..........dated............

Per D.N. Panda:

Ld. counsel Shri Ravi Raghvan submits that the demand involved in this case is relating to certain items i.e. nuts and bolts, beam assembly, welding alloys involving the corresponding duty amounts as appearing in the synopsis filed by him today.

2.1 So far as the nuts and bolts are concerned, ld. counsel submits that there is no dispute by Revenue that the goods are integral part of the capital goods. He draws our attention to page- 86 of the appeal folder and submits that the entire detail of utilisation of nuts and bolts were made available to the authority below for examination. The case of the appellant should have been examined by ld. authority below asking all details they proposed to examine. But for want of details, the appellant was denied justice. We have gone through the details submitted by the ld. counsel and sought assistance of ld. DR to explain on the matter. He disputes that whether these goods were used for the concerned purpose or not is not evident from page-86.

2.2 When the appellant is a public sector and has a vast steel plant, we do not doubt about few nuts and bolts for use in the capital goods. Therefore, we allow relief to the appellant granting Modvat credit of Rs. 13,55,201/- in respect of nuts and bolts.

3.1 The second dispute is relating to beams and assembly and the amount involved is Rs. 1,36,485/-. Shri Raghwan draws our attention to page-40 of the appeal file and he mentions that beam assembly are part of the goods falling under Tariff Chapter 8455. It is also the observation of the authority below that the goods were used for holding the machine and the machinery for which those are capital goods.

3.2 Ld. DR perused certain observations as aforesaid and he submits that the beam assembly is not the capital goods to enjoy Cenvat credit. We do not have any cogent reason to discard that the beam assembly is not capital goods and that machinery is not contributory for the operation of the plant and did not aid in manufacture of goods. Therefore, we allow the relief of Modvat credit of Rs.1,36,495/- in respect of beam assembly.

4.1 Next dispute is relating to welding alloys involving the Mdovat credit claim of Rs.44,748/-. Ld. counsel submits that all details were available to the authority below. But he simply denied to entertain claim of the appellant.

4.2 Ld. DR submits that in absence of details, the appellant was rightly denied Modvat credit on the above goods. We also found that the submission of the Revenue has force and when respective details were not available to consider the nature of the goods for eligibility and even before us, no details are furnished, the appellant looses its claim on this count.

5.1 The forth claim is related to denial of Modvat credit due to production of ineligible documents by appellant. Learned Counsel submits that when the allegation made is technical in nature and ld. appellate authority has granted relief on so many aspects in para 5.8 of the order making thorough examination, this meagre amount of Rs.92,444/- should have been allowed when there is nothing established reason against the appellant to deny the benefit.

5.2 Ld. DR supports the order of the ld. appellate authority.

5.3 We have noticed that ld. appellate authority in the last part of para 5.8 (c) has found that there were evidence before him to examine claim of the appellant. We appreciate that there is no contrary evidence to discredit the conclusion of the learned appellate authority below. Accordingly, the appellant ~~losses~~ loses its claim of Rs.92,444/- in this appeal.

6. In the result, the appellant gets partial relief towards duty liability against all the four disputes as indicated aforesaid for which the appeal is partly allowed.

7. In view of our decision to allow the appeal in respect of claim of Rs. 13,55,201/- and Rs.1,36,485/- on the count of nuts bolts and beam assembly aforesaid, the appellant shall not face any penal consequence of law in this regard. Since we allow substantial relief to the appellant, we do not consider that the appellant public sector should suffer any penalty for the use of the issues involved in this appeal.

(Dictated & pronounced in open Court)

(D.N. PANDA)
JUDICIAL MEMBER

(RAKESH KUMAR)
TECHNICAL MEMBER

RM