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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/3840/2004 - EX[DB] Date 11/02/2009

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

To :
M/S STEEL AUTHORITY OF INDIA LTD.
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. 115/2009- **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 COMMISSIONER OF CENTRAL EXCISE, RAIPUR CENTRAL EXCISE BHAWAN, DHAMTARI ROAD, TIKRAPARA RAIPUR (C
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. 3840 of 2004-Ex.

(Arising out of Order-in-Appeal No. 125/RPR-II/2004 dated 7.4.2004 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. 115/09-Ex dated............

Per D.N. Panda:

Ld. counsel Shri Ravi Raghvan submits that in respect of claim of Rs.25,696/- their being no documents, the appellant shall not succeed. In view of the fair submission, we hold that the observation of ld. Commissioner (Appeals) on this count of claim remains uncontroverted and the appellant looses its appeal on this count.

2. Shri Raghvan submits that the credit of Rs. 2,59,171/- is rightly admissible in respect of the goods replaced. They have not taken credit originally when the goods were brought originally and found defective. Accordingly, Revenue's rejection of claim is without any reason.

3. Ld. DR submits that if they have not taken credit earlier they are not entitled for replacement of the goods done. We are unable to satisfy how such a plea of Revenue is tenable in absence of any legal provision to contrary. When the goods were not acceptable to the Appellant and required replacement proving payment of duty on such goods, in absence of any contrary evidence for denial, the appellant should get relief of Rs.2,59,171/- on the replaced goods.

4. The third claim of the appellant is that an amount of Rs. 6,66,419/- is admissible as credit on the basis of documents available on record of the Revenue and when the goods in question was capital goods purchased and used for manufacture. Ld. authority below disallowed the claim for the reason that the appellant did not contest the fact that credit can be taken without duplicate copy of invoice or triplicate copy of Bill of Entry. Ld. DR supports the order of the authority below. We noticed that ld. Commissioner (Appeals) himself was not having evidence to hold that if the transaction is likely to facilitate commission of fraud introduce administrative inconvenience, the appellant should not have been denied of relief. When this was the observation of the ld.

appellate authority he should have material to support his decision. We observe that in absence of fraud or administrative inconvenience caused by the appellant, it should get appropriate relief of Rs.6,66,419/- for the capital goods purchased and used in manufacture which remained undisputed.

5. There is token penalty of Rs. 50,000/- imposed on the appellant. We have granted substantial relief to the appellant noticing that there was no malafide of the appellant brought on record in respect of its claim. Therefore, penalty imposed on the appellant should also be waived and we direct so.

6. In the result, the appeal is partly allowed.

(Dictated & pronounced in open Court)

(D.N. PANDA)
JUDICIAL MEMBER

(RAKESH KUMAR)
TECHNICAL MEMBER

RM