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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/3417/2004-3419/2004 - EX[DB] Date 26/02/2009

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

To :
C.C.E. INDORE
MANIK BAGH PALACE, P.O.-10, INDORE

C.C.E. INDORE Appellant
Vs
M/S MANOJ SURGICAL INDUSTRIES LTD. Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 168-170/2009- **EX[DB]** dated 19-2-09

passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(Excise Appeal Branch)

Copy to :
1. Respondent
   M/S MANOJ SURGICAL INDUSTRIES LTD.,
   PLOT NO.-106, SECTOR-III, INDUSTRIAL AREA, PITHAMPURA.

2. Adv. / Consult SH. MS. NAYAK, ADV.,
   A-5, BASEMENT,
   LAJPAT NAGAR-III
   N. DELHI - 24
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)

17. SHRI RAMESH SHARMA
    C/O MANOJ SURGICAL INDIA LTD., PLOT
    NO.106,SEC.III,INDS.AREA,PITHAMPUR
18. SH.S.L.SHARMA,
    MANOJ SURGICAL INDUSTRIAL LTD.
    MANOJ SURGICAL INDUSTRIES LTD. PLOT NO-106, SEC-III,
    PITHAMPUR

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST BLOCK NO. 2, R.K. PURAM, NEW DELHI

COURT – III

CENTRAL EXCISE APPEALS NOS. 3417-3419 OF 2004- Excise Appeal

[Arising out of Order-in-Appeal No.IND-I/128-130/04 dated 22.03.2004 passed by the Commissioner of Central Excise (Appeal-I), Indore]

For approval and signature:

Hon'ble Mr. M. Veeraiyan, Member (Technical)
Hon'ble Mr. P.K. Das, Member (Judicial)

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?	No.
3.	Whether their Lordships wish to see the fair copy of the order?	
4.	Whether order is to be circulated to the Departmental authorities?	Yes

Commissioner of Central Excise, Indore — Appellants
[Rep. by Ms. Nayak, Advocate]

Vs.

M/s. Manoj Surgical Industries Ltd. — Respondent
[Rep. by Shri S.N. Srivastava, SDR]

Coram:

Hon'ble Mr. M. Veeraiyan, Member (Technical);
Hon'ble Mr. P.K. Das, Member (Judicial),

Date of hearing/decision: 19.02.2009

FINAL ORDER NO. 168-170/09-EX **dated** __________

Per P.K. Das:

All the appeals are arising out of common order and, therefore, they are being taken up together for disposal.

2. Revenue filed these appeals against Order-in-Appeal No.IND/I/128-130/04 dated 22.03.2004 passed by the Commissioner of Central Excise (Appeals-I), Indore.

3. Heard both sides and perused the records. The dispute relates to the recovery of Modvat credit in respect of inputs lying in stock and contained in finished goods and also contained in the goods in the process and the same became exempted from duty w.e.f. 1.3.2000. The Commissioner (Appeals) set aside the Adjudication Order following the decision of the Larger Bench of the Tribunal in the case of Ashok Iron and Steel Fabricators reported in 2002 (140) ELT 277 (T-LB).

4. Ld. Advocate on behalf of the respondents submits that the Larger Bench of the Tribunal in the case of HMT Ltd. Vs. CCE, Panchkula reported

in 2008 (232) ELT 217(T-LB) held that the decision of the Tribunal in the case of Ashok Iron and Steel Fabricators (supra) enunciates the correct position of law.

5. We also noted that the present case relates to the period prior to 1.4.2000. In view of that, we do not find any reason to interfere the order of the Commissioner (Appeals). Accordingly, all the appeals filed by the Department are rejected. Cross objections are also disposed of.

Dictated & pronounced in the Open Court on 19.02.2009.

(M. VEERAIYAN)
MEMBER (TECHNICAL)

(P.K. DAS)
MEMBER (JUDICIAL)

ckp