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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/5099/2004 - EX[DB] Date 19/05/2009

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

To :
C.C.E. CHANDIGARH
PLOT NO 19, SEC 17-C, CHANDIGARH

C.C.E. CHANDIGARH Appellant
Vs
M/S PEPSU STEEL ROLLING MILLS Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 330/2009-**EX[DB]** dated 6-4-09 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 PEPSU STEEL ROLLING MILLS
MANDI GOBINDGARH
2. Adv. / Consult SH. RUPENDER SINGH, ADV.,
46, ARADAHNA, CHANAKYA PURI,
N. DELHI-66
3 C.D.R
~~4 J.C.D.R.~~
5 Bar association, CESTAT, New Delhi
6 Director Publications, Customs, Excise. I.P. Estate, New Delhi
7 M/s Centax Publictions Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi - 3
8 Commercial Laws of India Pvt Ltd. Post Bag No. 1033, No.2(Old No. 36), Vaithyaram Street, T. Nagar,Chennai -17
9 Raghuraman's 44-B, Regal Flat,Shipra Suncity, Indirapuram - 201010,Ghaziabad, DT, U.P.
10 M/s Manupatra Information Solutions Pvt Ltd. Excise & Customs Cases B-37, Sector - 1, Noida - 201301, Gautam Budh Nagar, (UP)
11 M/s. Deeparchie Publications, M-93, Marg. 46, Saket, New Delhi 110017
12 Taxindiaonline.com Pvt.Ltd, B-XI/8183,Vasant Kunj, New Delhi - 110070
13 Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh, New Delhi - 110026
14 Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road,Ahmedabad-15
15 LAWCRUX Advisors Pvt Ltd, LAW House,1-8,Sector - 10, Faridabad 121003 (Haryana)
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Assistant Registrar
(Excise Appeal Branch)

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

COURT – III

EXCISE APPEAL NO. 5099 OF 2004

[Arising out of Order-in-Appeal No. 584/CE/CHD/04 dated 12.08.2004 passed by the Commissioner (Appeals), Central Excise, Chandigarh]

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

CCE, Chandigarh — Appellant

Vs.

M/s. Pepsu Steel Rolling Mills — Respondent

Appearance:

Shri K.K. Goel, D.R., for the Revenue;
None for the respondents

Coram:

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

Date of hearing/decision: 6th April, , 2009

FINAL ORDER NO. 330/09-EA **dated** __________

Per P.K. Das:

Revenue filed this appeal against order of the Commissioner (Appeals) whereby adjudication order was set aside and appeal of the respondent was allowed with consequential relief.

2. The relevant facts of the case, in brief, are that the respondents are engaged in the manufacture of rolled products of iron and steel, classifiable under Chapter 72 of the Central Excise Tariff Act, 1985. During the year 1997-98 the respondents were working under Compounded Levy Scheme under Section 3A of the Central Excise Act, 1944. It has been alleged that the respondents had cleared 30.580 MT of re-rolled products of Alloy Steel without payment of duty involving Central Excise duty of Rs. 59,582/-. The allegation is based on investigation conducted at M/s. Thapar Ispat Ltd., Ludhiana who cleared 30.580 MT of Alloy Steel Ingots to M/s. Karan Steel Industries, Mandi Govindgarh, a registered dealer, who in turn sold these materials to the respondents. In this context, it is noted that manufacture and clearance of Alloy Steel Ingots are covered under Section 3 of the Central Excise Act and not within the Compounded Levy Scheme. The original authority confirmed the demand of duty and imposed penalty of equal amount.

The Commissioner (Appeals) set aside the adjudication order. Hence, Revenue filed this appeal.

3. After hearing both sides and on perusal of the records, we find that the representative of M/s. Thapar Ispat Ltd., manufacturer of Alloy Steel Ingots made a statement date d14.6.2002 that they have supplied Alloy Steel Ingots to the registered dealer. On the basis of the said statement it has been alleged that the dealer supplied Alloy Steel Ingots and not "Non-alloy Steel Ingots" to the respondents. Hence, it has been further alleged that the respondents cleared Alloy Steel Ingots to the tune of 30.580 M.T. without payment of duty. The Contention of the respondents is that they have received Non-alloy Steel Ingots from the dealer accompanied with dealer's Central Excise invoices which were duly recorded in the statutory records. He also contended that Non-alloy Steel Ingots used in the manufacture of re-rolled products cleared under the Compounded Levy Scheme. Further, M/s. Karan Steel Industries ~~Pepsu Steel Rolling Mills~~, a registered dealer also contended that they have supplied Non-alloy Steel Ingots to the respondent. In this connection, finding of the Commissioner (Appeals) is reproduced below:-

"I find that the appellants namely, M/s. Pepsu Steel Rolling Mills, Mandi Gobindgarh have been able to establish the fact that they have actually received non-alloy steel ingots in their factory which have been used by them in the manufacture of M.S. Bars cleared from their factory after discharging central excise duty under the Compounded Levy Scheme. Further, I observe that the dealer namely, M/s. Karan Steel

Industries, Mandi Gobindgarh had admittedly sold non-alloy steel ingots and had also charged the price of non-alloy steel ingots from M/s. Pepsu Steel Rolling Mills, Mandi Gobindgarh after duly accounting for in his books of accounts maintained in the ordinary course of business. Further, I find that no evidence has been adduced by the department to prove that the material received by the appellants was actually alloy steel. From this, the obvious conclusion is that the appellants had actually received non-alloy steel ingots from the dealer namely, M/s. Karan Steel Industries, Mandi Gobindgarh alongwith the invoice issued by him and had used these non-alloy steel ingots in the manufacture of M.S. Bars which had been cleared from their factory after discharging the duty liability under the Compounded Levy Scheme."

4. We find that the Revenue have not disputed the above finding of the Commissioner (Appeals). In other words, the main contention of the learned D.R. is that statement of the manufacturer M/s. Thapar Ispat Ltd. is relevant to conclude that the respondents received Alloy Steel Ingots. We are unable to accept the contention of the Revenue after considering the above finding of the Commissioner (Appeals).

5. In view of the above discussion, we agree with the finding of the Commissioner (Appeals). Hence, the appeal filed by the Revenue is rejected.

(Operative part pronounced in the Open Court.)

(M. VEERAIYAN)
MEMBER (TECHNICAL)

(P.K. DAS)
MEMBER (JUDICIAL)

RK