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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/1239/2009 - EX[DB] & E/COD/95/2009-EX   Date 07/07/2009

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

To :
M/S C.G.ISPAT PVT. LTD.
C/O CHIRAG ENTERPRISES, STATION ROAD,
TELGHANINAKA, RAIPUR (C.G.)-492001.
M/S C.G.ISPAT PVT. LTD.   Appellant
Vs
C.C.E. RAIPUR   MISC ORDER NO. 443/09-EX.   Respondent

I am directed to transmit herewith a certified copy of **Final order No.**449/2009- **EX[DB]** dated 18-6-09

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
CENTRAL EXCISE BUILDING, DHAMTARI ROAD, TIKRAPARA, RAIPUR 492001.
2. Adv. / Consult
NONE

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)
16 Office Copy
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Assistant Registrar
(Excise Appeal Branch)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

West Block No.2, R.K.Puram, New Delhi

COURT-III

Date of hearing/decision: 18.6.2009

Condonation Application No.95 of 2009 and Central Excise Appeal No.1239 of 2009

Arising out of the order in appeal No.87/RPR-1/2008 dated 6.8.09 passed by the Commissioner ,Customs & Central Excise, Raipur.

For Approval and Signature:

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

1	Whether Press Reporter may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	No
2	Whether it should be released under Rule 27 of CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	NA
3	Whether their Lordships wish to see the fair copy of the Order?	Seen
4	Whether Order is to be circulated to the Departmental authorities?	Yes

C.G. Ispat Private Limited .... Applicant/Appellant

Vs.

C.C.& C.E., Raipur .... Respondent

Appearance:

None for the appellants/applicants
Shri R.K. Verma, Authorized Departmental Representative (DR) for the Revenue

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

misc Oral Order No. 443/09-Ex
FINAL ORDER NO. 449/09-EX
Per P.K. Das:

Applicant filed this application for condonation of delay in filing of appeal. None appeared on behalf of the applicant despite issue of notice.

2. After hearing the learned DR and on perusal of the records, we find that the matter may be decided on preliminary point. It is seen the original authority rejected the rebate claim filed by the applicant. Learned DR submits that in terms of the first proviso to Section 35B(1) of the Central Excise Act, 1944 , no appeal shall lie to the Appellate Tribunal in respect of

any order relates to rebate of duty of excise passed by Commissioner (Appeals).

3. We agree with the submission of the learned DR. It is seen that the appeal relates to rebate claim and the order was passed by the Commissioner (Appeals). In view of first proviso to Section 35B (1) of the Act, the appeal is not maintainable before the Tribunal. Accordingly, COD application along with appeal are dismissed as not maintainable.

(M. Veeraiyan)
Member (Technical)

(P.K.Das)
Member (Judicial)

scd/