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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/5324/2004-5329/2005,2917/2005-2920/2005,2921/2005-2923/2005,3456/2005 - EX[DB] Date 13/08/2009

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

To :
M/S KHEMANI METAL INDS. PVT. LTD.
A-46(A), M.I.A. 2ND PHASE, BASNI, JODHPUR

M/S KHEMANI METAL INDS. PVT. LTD. Appellant
Vs
C.C.E. JAIPUR-II Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 515-528/2009- **EX[DB]** dated 04-8-09 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. JAIPUR-II
   NCRB, STATUE CIRCLE, C-SCHEME, JAIPUR
2. Adv. / Consult SH. K.K. ANAND, 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. 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
17. Guard file
18. HON'BLE PRESIDENT
19. M/S BRIGHT METAL,
    4,LIGHT INDUSTRIAL AREA JODHPUR

Assistant Registrar
(Excise Appeal Branch)

P.T.O. -2

20. .M/S ACME INDUSTRIES
E-85 M.I.A.2ND PHASE BASNI JODHPUR

21. .M/S LEELA ALLOYS (P) LTD.
E-376, M.I.A. 2ND PHASE, BASNI, JODHPUR

22. .M/S MAYANK STEELS INDS.
B-59(B), M.I.A. 2ND PHASE, BASNI, JODHPUR

23. .M/S MEHTA UDYOG
F-365 M.I.A.2ND PHASE BASNI JODHPUR

24. .M/S PARDISE STEELS PVT.LTD.
E-37, M.I.A.2ND PHASE BASNI JODHPUR

25. .M/S PRATIK METALS PVT.LTD.
E-74,M.I.A.2ND PHASE BASNI JODHPUR

26. .M/S SURBHI ALLOYS PVT.LTD.
E-378 M.I.A.2ND PHASE BASNI JODHPUR

27. .MAHESH INDUSTRIES
F 253-254, M.I.A 2ND PHASE, BASNI,JODHPUR,

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH - COURT NO. 1

DATE OF HEARING : 04.08.2009
DATE OF DECISION : 04.08.2009

FOR APPROVAL AND SIGNATURE :

HON'BLE MR. JUSTICE R.M.S. KHANDEPARKAR, PRESIDENT
HON'BLE MR. M. VEERAIYAN, MEMBER (TECHNICAL)

1.	Whether Press Reporters 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 the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not ?	Yes
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

(i & ii) Excise Appeal Nos. 5324 – 5325 of 2004

M/s Khemani Metal Indus. Pvt. Ltd. .... **Appellant**
(Rep by Sh. K.K. Anand, Adv.)

VERSUS

CCE, Jaipur-II .... **Respondent**
(Rep. by Sh. B.K. Singh, Jt. CDR)

AND

(iii & iv) Excise Appeal Nos. 5326 – 5327 of 2004

M/s Mayank Steel Industries .... **Appellant**
(Rep by Sh. K.K. Anand, Adv.)

VERSUS

CCE, Jaipur-II .... **Respondent**
(Rep. by Sh. B.K. Singh, Jt. CDR)

AND

(v) Excise Appeal No. 5328 of 2004

M/s Leela Alloys (P) Ltd. .... Appellant
(Rep by Sh. K.K. Anand, Adv.)

VERSUS

CCE, Jaipur-II .... Respondent
(Rep. by Sh. B.K. Singh, Jt. CDR)

AND

(vi) Excise Appeal No. 5329 of 2004

M/s Manish Industries .... Appellant
(Rep by Sh. K.K. Anand, Adv.)

VERSUS

CCE, Jaipur-II .... Respondent
(Rep. by Sh. B.K. Singh, Jt. CDR)

AND

(vii) Excise Appeal No. 2917 of 2005

M/s Bright Metal .... Appellant
(Rep by Sh. K.K. Anand, Adv.)

VERSUS

CCE, Jaipur-II .... Respondent
(Rep. by Sh. B.K. Singh, Jt. CDR)

AND

(viii) Excise Appeal No. 2918 of 2005

M/s ACME Industries .... Appellant
(Rep by Sh. K.K. Anand, Adv.)

VERSUS

CCE, Jaipur-II .... Respondent
(Rep. by Sh. B.K. Singh, Jt. CDR)

AND

(ix) Excise Appeal No. 2919 of 2005

M/s Khemani Metal Indus. Pvt. Ltd. .... Appellant
(Rep by Sh. K.K. Anand, Adv.)

VERSUS

CCE, Jaipur-II .... Respondent
(Rep. by Sh. B.K. Singh, Jt. CDR)

AND

(x) Excise Appeal No. 2920 of 2005

M/s Pratik Metals Pvt. Ltd. .... Appellant
(Rep by Sh. K.K. Anand, Adv.)

VERSUS

CCE, Jaipur-II .... Respondent
(Rep. by Sh. B.K. Singh, Jt. CDR)

AND

(xi) Excise Appeal No. 2921 of 2005

M/s Mayank Steel Indus. .... Appellant
(Rep by Sh. K.K. Anand, Adv.)

VERSUS

CCE, Jaipur-II .... Respondent
(Rep. by Sh. B.K. Singh, Jt. CDR)

AND

(xii) Excise Appeal No. 2922 of 2005

M/s Paradise Steel Pvt. Ltd. .... Appellant
(Rep by Sh. K.K. Anand, Adv.)

VERSUS

CCE, Jaipur-II .... Respondent
(Rep. by Sh. B.K. Singh, Jt. CDR)

AND

(xiii) Excise Appeal No. 2923 of 2005

M/s Surbhi Alloys Pvt. Ltd. .... Appellant
(Rep by Sh. K.K. Anand, Adv.)

VERSUS

CCE, Jaipur-II .... Respondent
(Rep. by Sh. B.K. Singh, Jt. CDR)

AND

(xiv) Excise Appeal No. 3456 of 2005

M/s Mehta Udyog .... Appellant
(Rep by Sh. K.K. Anand, Adv.)

VERSUS

CCE, Jaipur-II .... Respondent
(Rep. by Sh. B.K. Singh, Jt. CDR)

(All arising out of common order-in-appeal nos. 450-65 (RM)CE/JPR-II/2004 dated 03.08.2004 passed by the Commissioner (Appeals-II), Customs & Central Excise, Jaipur)

CORAM : HON'BLE MR. JUSTICE RMS KHANDEPARKAR, PRESIDENT
HON'BLE MR. M. VEERAIYAN, MEMBER (TECHNICAL)

FINAL **ORAL ORDER NO.** 515-528/09-EX

PER M. VEERAIYAN :

All these fourteen appeals arise out of common order-in-appeals passed by the Commissioner (Appeals) vide order no. 450-65 (RM)CE/JPR-II/2004 dated 03.08.2004.

2. Heard both sides.

3.1 The relevant facts are that, the assessees purchased Stainless Steel Flats falling under sub-heading 7220.10 and subjected them to the processes of cutting them to desired length, hot rolling with the help of hot rolling machine to yield HS patta/patti, annealing, pickling and treatment with acid and water. The said HS patta/patti, thereafter, was subjected to the process of cold rolling with the help of cold rolling machines till the thickness of desired gauge in the sheet/patti is achieved. After that, the HS patta/patti was then subjected to annealing, pickling, straightening, washing and packing before despatch. In some cases, the process of hot rolling was undertaken with the help of job workers.

3.2 The assessees paid duty under Compounded Levy Scheme applicable to goods falling under Chapter Heading 7219.90 or 7220.90. Thereafter they filed refund claims on the ground that the process of converting the SS flats into hot rolled patta/patti did not amount to manufacture. These refund claims have been rejected by the original authority and the order of the original authority has been upheld by the Commissioner (Appeals) by the impugned order.

4. The issue whether the process of converting SS flats into hot rolled patta/patti will amount to manufacture or not is no more *res integra* having been decided by the Tribunal in the case of **Bharatbhai B. Gala vs Commissioner of Central Excise, Ahmedabad-I,** 2007 (214) ELT 419 (T-Ahmd.), wherein it has been held that, the above said processes bring into existence a commercially new and distinct product and, therefore, will amount to manufacture. Since on merits, the matter already stands decided against the assessees, there is no ground made out for interfering with the orders of the Commissioner (Appeals) in upholding the rejection of the refund claims by the original authority.

4. All the appeals are, therefore, rejected on the same ground.

(JUSTICE R.M.S. KHANDEPARKAR)
PRESIDENT

(M. VEERAIYAN)
MEMBER (TECHNICAL)

Golay