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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/72 /2006 - EX[DB] Date 08/10/2009

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

To .
C.C.E. RAIPUR
CENTRAL EXCISE BUILDING, DHAMTARI ROAD,
TIKRAPARA, RAIPUR 492001.
C.C.E. RAIPUR

Appellant
Vs
Respondent

RAMESH STEEL INDUSTRIES UNIT-II

I am directed to transmit herewith a certified copy of **Final order No. 762/ 2009 EX[DB]** dated 01-10-09 passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(Excise Appeal Branch)

Copy to :
1. Respondent
   RAMESH STEEL INDUSTRIES UNIT-II
   TATIBANDH, G.E. ROAD, RAIPUR.
2. Adv. / Consult SHRI ATUL GUPTA,C.S.
   B-1/1289-A,VASANT KUNJ,
   N. DELHI-70
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

Assistant Registrar
(Excise Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST BLOCK NO.II, R.K. PURAM, NEW DELHI-110066.
BENCH-DB

Excise Appeal No.E/72/2006 Ex. Br.

[Arising out of Order-in-Appeal No.122/RPR-1/2005 dated 20.10.2005 passed by the Commissioner (Appeals), Raipur].

Date of Hearing:30.09.2009
Date of decision: 30.09.2009

CCE, Raipur ...Appellant

Vs.

Ramesh Steel Inds. ... Respondent

Present for the Appellant :Shri.Vijay Kumar, SDR
Present for the Respondent:Shri Atul Gupta, C.S.

Coram: Hon'ble Mr.D.N.Panda, Judicial Member
Hon'ble Mr. Rakesh Kumar, Technical Member

FINAL **ORDER NO.** 762/09-EX **DATED:30.09.2009**

PER: D.N.PANDA

Revenue is in appeal challenging the order passed by the ld. Commissioner (Appeals) on 20th October, 2005 who held that partial sale of goods to related person does not defeat the rationale of section 4(3) of Central Excise Act 1944 read with rule 9 of the Central Excise Valuation (Determination of Price of Excisable Goods), Rules, 2000. He has examined the issue in para 8 giving the factual finding that there was 19% of total clearance made to related person by the appellant. Such fact remains undisputed. He has also analysed legal position in para 11 of his order and came to the conclusion in para 13 holding that the minor sale and clearance to a related person does not defeat the purpose of rule 9 of the Central Excise Valuation Rules 2000.

2. Ld. DR Shri Vijaykumar relies on the decision of the Tribunal in the case of Avon Scales Co. vs. CCE, Delhi reported in 1999 (111) E.L.T.613 (Trib.). Shri Vijay Kumar submits that even a minor quantum of clearance shall call for valuation definitely, which ld. Commissioner has not done.

3. Ld. AR Shri Atul Gupta submits that the appellant shall be benefited by the decisions of Tribunal in the cases of South Asia Tyres Pvt. Ltd. vs. Commissioner of Central Excise, Aurangabad reported in 2003 (152) E.L.T. 434 (Tri.- Mumbai) & R.B. Agarwalla & Co. P. Ltd. vs. Commissioner of Central Excise & Customs, Bhubaneswar-II reported in 2007 (217) ELT 417 (Tri.- Kolkata)

4. Having noticed that the ld. Commissioner (Appeals) has examined the issue correctly and 19% of total clearances were only made to related person, we do not find substance in the contention of the Revenue for no arrangement made deliberately to influence the transaction value. Accordingly, Revenue's appeal is dismissed.

[Dictated & Pronounced in the open Court].

(D.N.PANDA)
JUDICIAL MEMBER

(RAKESH KUMAR)
TECHNICAL MEMBER

Anita