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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/449,3233 /2005 - EX[DB]
E/920,921,922,2526& 2527/2006-EX

Date 09/12/2009

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

To :
M/S ANANT RAJ INDUSTRIES LTD
85 KM, STONE DELHI JAIPUR HIGHWAY V-BHUDLA
DISTT-REWARI HARYANA
M/S ANANT RAJ INDUSTRIES LTD

Appellant
Vs
Respondent

C.C.E. DELHI III

I am directed to transmit herewith a certified copy of **Final order No. 1347-1353/2009 EX[DB]** dated 26-11-09 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. DELHI III
   UDYOG MINAR, UDYOG VIHAR, VANIJYA NIKUNJ, PHASE V, GURGAON - 122016 (HARYANA)
2. Adv. / Consult
   MR.P.N.KALRA
   PLOT NO 10, IST FLOOR, WZ-27, JAWAL HARRY MKT, PACHIM VIHAR, N DELHI.

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

Assistant Registrar
(Excise Appeal Branch)

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CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
West Block No.2, R. K. Puram, New Delhi
COURT-I

Date of hearing/decision: 26.11.2009

For approval and signature:

Hon'ble Shri Justice R.M.S. Khandeparkar, President
Hon'ble Shri Rakesh Kumar, 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.	Yes
2	Whether it should 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?	Seen
4	Whether Order is to be circulated to the Departmental authorities?	Y

Sl. No.	Excise Appeal No.	Name of the appellant	Respondent	Arising out of the order in appeal No. and date	Passed by the
1	449 of 2005	M/s Anant Raj Industries Limited	CCE. Delhi-III	296/AKG/GGN /2004 dated 24.8.2004	CCE (Appeals), Delhi-III, Gurgaon.
2	3233 of 2005	M/s Anant Raj Industries Limited	-do-	283/GRM/GG N/2005 dated 30.6.2005	-do-
3	920 of 2006	M/s Anant Raj Industries Limited	-do-	452-453/GRM /GGN/2005 dated 13.12.2005	-do-
4	921 of 2006	M/s Anant Raj Industries Limited	-do-	-do-	-do-
5	922 of 2006	M/s Anant Raj Industries Limited	-do-	-do-	-do-
6	2526 of 2006	M/s Anant Raj Industries Limited	-do-	130-131/GRM/ GGN/2006 dated 28.4.2006.	-do-
7	2527 of 2006	M/s Anant Raj Industries Limited	-do-	-do-	-do-

Appearance:

Appeared for the Appellant – None

Appeared for the Respondent –Shri B. L. Soni, SDR

Coram: Hon'ble Shri Justice R.M.S. Khandeparkar, President
Hon'ble Shri Rakesh Kumar, Member (Technical)

FINAL Oral Order 1347-1353 /08-EX

Per Shri Justice R.M.S. Khandeparkar:

Since common questions of law and facts arise in all these appeals, they were directed to be heard together and accordingly are being disposed of by this common order.

2. None appeared for the appellants even though notice has been served. We have heard the learned DR and gone through the records.

3. The only issue which arises for consideration in all these matters is whether the assessees are entitled for refund of the amount which is claimed as the amount availed as credit on the inputs utilised in manufacture of the goods which were exported by the appellants availing benefit under Notification No.6/02-CE dated 1.3.2002 as amended by Notification No. 45/2003-CE dated 14.05.2003.

4. In terms of Notification No. 6/2002-CE dated 01.03.2002 the excisable goods of the description specified in column (3) of the Table of the said notification were exempted from so much of duty of excise specified, under the First Schedule to the Central Excise Tariff Act as is in excess of the amount calculated at the rate specified in the corresponding entry in column (4) of the said Table and from so much of special duty of excise leviable thereon under Second Schedule to the Central Excise Tariff Act as

is in excess of the amount calculated at the rate specified in the corresponding entry in column (5) of the said table subject to the relevant condition specified in the annexure to the notification and referred to in the corresponding entry in column (6) of the said Table. Initially the items described under column (3) of the said table did not include ceramic tiles the manufactured by the appellants.

5. In 2003 under Notification No. 45/2003-CE dated 14.05.2003, the ceramic tiles manufactured in a factory not using electricity, liquefied petroleum gas (LPG) or propane gas for firing the kiln were also included under entry No. 275 in the said Table and the duty liability was specified under column (4) as 8% and it was made subject to condition No. 62 specified in corresponding column (6) of the Table. The condition No. 62 provided that "if no credit of the duty paid on the inputs used in or in relation to the manufacture of such ceramic tiles has been taken under rule 3 or rule 11 of Cenvat Credit Rules 2002".

6. The Notification No. 6/2002-CE dated 01.03.2002 read with Notification No. 45/2003-CE dated 14.05.2003 therefore clearly disclose that the product like ceramic tiles manufactured by the appellants are entitled to avail the benefit of the said notifications but it is subject to the condition that the manufacturer should not avail credit on the duty paid on the inputs used in or in relation to the manufacture of such ceramic tiles.

7. In the cases in hand, it is not in dispute that the appellants had availed the credit of the duty paid on inputs used in or in relation to the manufacture of ceramic tiles. Being so, question of granting benefit under the said notifications to the appellants product cannot arise.

8. In the circumstances, therefore, no fault can be found with the impugned order and hence appeals are liable to be dismissed and are accordingly hereby dismissed.

(Justice R.M.S. Khandeparkar)
President

(Rakesh Kumar)
Member (Technical)

/Pant/