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CUSTOMS. EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
SINGLE MEMBER APPEAL BRANCH

Appeal No. E/510 /2006-SM[BR] Date 09/01/2008

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

To :
M/S EURO COTSPIN LTD.
VILL-DEHAR,LALRU,DISTT.PATIALA(PB)

M/S EURO COTSPIN LTD. Appellant

Vs

CCE,CHANDIGARH Respondent

I am directed to transmit herewith a certified copy of Final order No. 24/2008-SM[BR] dated 12.12.2007 passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent
   CCE,CHANDIGARH
   DO
2. Adv. / Consult SHRI. JAGMOHAN BANSAL ADV.
   #1640/1, SECTOR 40-B, CHANDIGARH

3. S.D.R.
4. ~~J.C.D.R.~~
5. Bar association, CESTAT, New Delhi
6. M/s. Deeparchi Publications, M-93, marg. 43, saket, New
7. M/s Centax Publictions (P) Ltd., 1512-E, Bhishm Pitamah
8. Excise & Customs cases, B-37, Sector -1, NOIDA - 201301
9. R.Venkatraman Constt. 44-B, S.Suncity, Ghaziabad -
10. Nidheshak publications, I.P.Estate, new Delhi
11. Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh,
12. Co, Law Institution
13. TAX INDIA, B-XI/8183,Vasant Kunj, New Delhi - 110070
14. Office Copy
15. Guard file

Assistant Registrar
(SM Appeal Branch)

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
COURT NO. II

Excise Appeal No. 510 of 2006-SM

[Arising out of Order-in-Appeal No. 464/CE/CHD/2005 dated 29.12.2005 passed by Commissioner of Central Excise (Appeals), Chandigarh]

For approval and signature:

Hon'ble Mr. S.S. Kang, Vice President

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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 should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not? :
3. Whether Their Lordships wish to see the fair copy of the Order? :
4. Whether Order is to be circulated to the Departmental authorities? :

No

M/s. Euro Cotspin Ltd. Appellants

Vs.

Commissioner of Central Excise. Respondent
Chandigarh

Appearance:

Shri Atul Gupta, Company Secretary for the Appellant
Shri B.S. Suhag, DR for the Respondent

Date of decision : 12.12.2007

Final ORDER NO. 24/08-SM(BR)

Per S.S. Kang:

Heard both sides. The appellant filed this appeal against the impugned order whereby the payment of Additional Excise Duty (Textile and Textile Articles) Act, 1978 was made from the RGI Part II i.e. from Cenvat account was not accepted. Revenue is of the opinion that the manufacturer cannot pay Additional Excise Duty from the Cenvat account which is in respect of basic excise duty. The contention of the Revenue is that same can be paid from PLA or cash.

2. The appellant relied upon the decision of Prag Bosimi Synthetics Ltd vs. CCE, Dibrugarh reported in 2007 (216) ELT 254(Tri-Kol). The contention is that in this case the Tribunal held that payment of National Calamity Contingent Duty can be paid from the Cenvat credit account. The contention is that under the provisions of Additional Excise Duty (T & TA) Act or under Cenvat Credit Rules, there is no such prohibition. The prohibition provided under the Act is that the credit of AED cannot be utilized for payment of basic excise duty. I find that as per the provisions of AED (T&TA) Act and under Credit Rules, there is no prohibition for payment of AED from the Cenvat account. In view of this, I find merit in the contention of the appellant. Therefore, the impugned order is set aside and appeal is allowed.

(Dictated in the open Court)

(S.S. Kang)
Vice President

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