

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/2559/2005-SM[BR]

Date 14/01/2008

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

To :
PRECISION TOOL & CASTINGS LTD.
LUCKNOW PLANT-I, MALVIYA NAGAR, AISHBAGH,
LUCKNOW

PRECISION TOOL & CASTINGS LTD.

C.C.E. LUCKNOW

Appellant

Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No.60/2008-SM[BR] dated 11.12.2007
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944


Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent

C.C.E. LUCKNOW

7-A, ASHOK MARG, LUCKNOW.

2. Adv. / Consult

MR.KAPIL VAISH

B-51, BUTLER PLAZA, 95, CIVIL LINES, BAREILLY.

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 Publications (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 & SERVICE TAX
APPELLATE TRIBUNAL**

**West Block No. 2, R.K. Puram, New Delhi – 110 066.
Principal Bench, New Delhi**

COURT NO. III

Excise Appeal No. 2559 of 2005 – SM (BR)

[Arising out of the Order-in-Appeal No. 255/CE/2005 dated 30/04/2005 passed by The Commissioner (Appeals), Customs & Central Excise, Lucknow.]

For Approval and signature :

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

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 would 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 :
Department Authorities?
-

M/s Precision Tools & Casting Ltd.

Appellant

Versus

CCE, Lucknow

Respondent

Appearance

Shri Kapil Vaish, C.A. – for the appellant.

Ms. Archana Pandey Tiwari, Authorized Representative (Jt.
CDR) – for the Respondent.

CORAM : Hon'ble Shri P.K. Das, Member (Judicial)

DATE OF HEARING : 11/12/2007.

Final Order No. 60/08-SM(BR) Dated : _____

Per. P.K. Das :-

Heard both sides and perused the records. In this case, credit was denied as it was taken after the six months of the issue of invoice. The learned counsel submits that the appellant recorded the receipt of the inputs in the RG-23A Pt. I register on 2nd January 1997 against invoice dated 30th December 1996. He further submits that due to delay of inspection of material, the credit was recorded in the RG-23A Pt. II register on 2nd July, 1997. In support of his contention, the learned counsel placed the correspondences with the supplier.

2. I find that the Tribunal in the case of **Commissioner of Central Excise, Hyderabad vs. Aurobindo Pharma Ltd.** reported in 2001 (127) E.L.T. 786 (Tri. – Chennai) held that time limit of six months from the date of issue of document

apply receipt of goods in the factory and not to the process of taking the credit. It is seen that the Commissioner (Appeals) had not examined this issue that the appellants recorded the receipt of the materials in the RG-23 Pt. I register within six months and therefore the matter is required to be examined by the lower authorities. Accordingly, the impugned order in so far as denial of credit taken after six months of the issue of the invoices is set aside and the matter is remanded back to the adjudicating authority to examine the evidences placed by the appellants and to decide the matter in the light of the decision of the Tribunal in the case of Aurobindo Pharma Ltd. (Supra). The appeal is allowed by way of remand.

(Dictated and pronounced in open court)

(P.K. Das)
Member (Judicial)

PK