

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/2379/2006-SM[BR]

Date 25/01/2008

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

To :
M/S BIRLA CORPORATION LTD
P.O.CEMENT FACTORY, CHANDERIA, CHITORGARH

M/S BIRLA CORPORATION LTD

THE COMMISSIONER OF CENTRAL EXCISE JAIPUR-
II

Appellant
Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No. 161/2008-SM[BR] dated 9.1.2008
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944


Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent

THE COMMISSIONER OF CENTRAL EXCISE JAIPUR-
II
NEW CENTRAL REVENUE BUILDING, C-SCHEME,
JAIPUR
302005

2. Adv. / Consult

MR.K.K ANAND

A-5,BASEMENT,LAJPAT NAGAR-III NEW DELHI-24

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, NEW DELHI
PRINCIPAL BENCH, NEW DELHI
COURT NO. II

Excise Appeal No. 2379 of 2006-SM(BR)

(Arising out of Order-in-Appeal No. 205(HKS)CE/JPR-II/2006 dated 12.4.2006 passed by the Commissioner of Central Excise (Appeals), Jaipur)

For approval and signature

HON'BLE MR. S.S. KANG, VICE PRESIDENT

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 Departmental authorities.	

M/s Birla Corporation Ltd.

Appellant

Vs.

CCE, Jaipur-II

Respondent

Appearance:

Shri Hemant Bajaj, Advocate

- For appellant

Ms. Archana P. Tiwari, Jt. CDR

- For respondent

CORAM:

HON'BLE MR. S.S. KANG, VICE PRESIDENT

Date of Hearing: 9.1.08

Final Order No. 161/08 SM (BR) dated 9.1.08

Per S.S. Kang

Heard both sides.

2. The appellant filed this appeal against the impugned order whereby credit of Rs.10,556/- was denied on the ground that the appellant received the only invoices and not the inputs.

3. The contention of the appellant is that they received the inputs from registered dealers and the payments were made through the banking channel. The contention is that GRs showing the transportation of the goods were also produced before the lower authorities to show that the goods were transported to their place. The contention is that the statutory records of the appellant indicate the receipt of the goods in question and their use in excisable goods, therefore, credit cannot be denied.

4. The contention of the Revenue is that from the records of the supplier i.e. registered dealers, there is no entry regarding

receipt and despatch of these goods, therefore, the appellant received only duty paying documents not the goods.

5. I find that during investigation the statement of authorized signatory of the supplier of inputs was recorded and in his statement he submitted that they had received the goods from M/s Hindustan Wire Products Ltd. and same were sold to various trader or manufacturer. M/s Hindustan Wire Products Ltd. also explained that the duty paid goods supplied to the traders. I find that the appellant produced copy of transporter GRs under which the goods were booked and copy of payment vouchers showing payment to the transporter. There is ^{SRU} ~~no~~ evidence on record to show that payments were made through banking channel and sale documents were moved through the banks on making payment the documents were released to the appellant. Further, I find that there is ^{SRU} ~~no~~ evidence that the inputs covered under the invoices, which were, as per Revenue

received in the factory, were used in the manufacture of final product, which was cleared on payment of duty. There is no evidence that the appellant substituted the inputs. In these circumstances the impugned order is set aside and the appeal is allowed.

(Dictated & pronounced in open Court)

(S.S. KANG)
VICE PRESIDENT

RM