

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/717 /2006-SM[BR]

Date 01/02/2008

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


To :
CCE,RAIPUR
C.E.BUILDING,TIKARAPARA,RAIPUR(CG)

CCE,RAIPUR

M/S RAYMONDS LTD.

Appellant
Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No.228/2008-SM[BR] dated 14.1.2008
passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944


Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent
M/S RAYMONDS LTD.
POKHRAN ROAD NO-1,PO-JEKERAM,THANE(W)
2. Adv. / Consult SHRI . VASANT NAAG GM
C/O RESPONDENT-----
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)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
COURT NO.II

E/Appeal No.717/2006-SM

(Arising out of order in appeal No.132/RPR.I/05 dated 26.10.05 passed by
the Commissioner (Appeals), Customs & Central Excise, Raipur)

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 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?

2

CCE, Raipur

Appellant
(Rep. by Shri S. Gautam, SDR)

Vs

M/s Raymonds Ltd

Respondent
(Rep. by Shri Vasant Naag, GM)

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

Date of Hearing: 14.1.2008

Final Order No. 228/08 SM (BL)

Per P.K. Das:

Heard both sides and perused the record.

2. The Revenue filed this appeal against the order of Commissioner (Appeals) whereby credit was allowed on Filter bags, Brand heaters of ESP and parts of Wagon Loader.

3. After hearing both the sides, and perusal of record, it is contended by the learned DR that Filter bags and Brand heaters of ESP are parts of Pollution Control equipment. The learned DR submits that Pollution Control equipment did not fall at Sl No.1 to 4 of the Table of Rule 57-Q of the erstwhile Central Excise Rules, 1944. Therefore, parts of Pollution Control equipment cannot be treated as parts and components of plant and machinery.

4. The Tribunal in the case of Jaypee Reva Cements Vs CCE Raipur reported in 1997 (96) ELT 167 allowed the credit on these items. The finding of the Tribunal is reproduced below:-

“Parts of Pollution Control Equipment are essential for the plant and machinery in the present day thinking on pollution control. The Apex Court in the case of IFFCO had held that the Pollution Control Equipment is a part of plant and machinery used in the manufacture of fertilizer and further held that the ammonia gas used in this process is also eligible for the benefit of exemption notification. Here, though we are not concerned with the exemption part, we are concerned with Pollution Control Equipment as part of plant and machinery and since the Pollution Control Equipment is an essential requirement being part of the plant and machinery, shall be admissible to the benefit of modvat credit as capital goods.”

In view of the decision of the Tribunal, credit on these items is upheld.

5. Regarding credit on parts of Wagon loader, the learned DR submits the goods are recorded in the negative list of eligible capital goods

mentioned at Sl No. 2 of the Table of Rule 57-Q, modvat credit cannot be allowed. The Commissioner (Appeals) observed that parts of Wagon loader are components of wagon loader installed in the factory. Wagon loader is classifiable under Chapter 84 and covered under Sl No. 1 of the Table to Rule 57Q. Therefore, parts of Wagon loader is eligible for modvat credit.

6. In view of the above, I do not find any reason to interfere with the order of the Commissioner (Appeals). Accordingly, the appeal filed by the revenue is rejected.

(Order dictated and pronounced in the open Court).

MPS*

(P.K. Das)
Member(Judicial)