

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/1914/2006-SM[BR]

Date 18/02/2008

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

To :
M/S HEG LTD (SPONGE IRON DIVISION)
BORAI INDL. GROWTH CENTRE, P.O.RASMADA,
DISTT. DURG (C.G.)

M/S HEG LTD (SPONGE IRON DIVISION)

Appellant

THE COMMISSIONER OF CENTRAL EXCISE RAIPUR

Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No. 290/2008-SM[BR] dated 18.1.2008 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 RAIPUR

CENTRAL EXCISE BUILDING, DHAMTARI ROAD,
TIKARAPARA, RAIPUR (C.G.)

2. Adv. / Consult SHRI RAVI RAGHAVAN ADV.

N/V-----

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)

(6)

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

E/Appeal No.1914 /2006-SM

(Arising out of order in appeal No.11/RPR.II/06 dated 22.2.06 passed by the
Commissioner of Central Excise (Appeals), 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?

M/s HEG Ltd

Appellant
(Rep. by Shri Ravi Raghavan, Advocate)

Vs

CCE, Raipur

Respondent
(Rep. by Shri S.L. Meena, DR)

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

Date of Hearing: 18.1.2008

Final Order No: ~~2299/06~~ SM (BR)

Per P.K. Das:

The appellant filed this appeal against denial of credit on spare parts used in the boiler turbine for production of steam and electricity.

2. Heard both the sides and perused the record. The Commissioner (Appeals) observed that a part of this electricity is used captively in the manufacture of sponge iron, but a major portion is supplied through the distribution lines of MPEB. It has been held that the appellants are entitled to avail credit in respect of electricity produced and which is captively consumed by them. The Advocate draws the attention of the Bench to Rule 6(4) of Cenvat Credit Rules, 2002 which provides that no cenvat credit shall be allowed on capital goods which are used exclusively for manufacture of exempted goods other than the products which are exempted from the whole of excise duty leviable thereon. In the present case, it is seen that denial of credit on the spare parts, which were used in the boiler which in turn were not used exclusively in the exempted goods. Therefore, there is no reason to deny the credit on the spare parts used in the boilers. The Tribunal in the case of Kothari Sugars & Chemicals Ltd Vs CCE Trichy reported in 2006 (196) ELT 35 held that steam generating boiler parts used in captive power plant and partly sold out to Tamil Nadu Electricity Board are eligible to cenvat credit under Rule 57-R of erstwhile Central Excise Rules, 1944. In view of that, I do not find any reason to deny modvat credit on these items. Therefore, the impugned order is set aside and the appeal is allowed with consequential relief.

(Order dictated and pronounced in the open Court).

MPS*

(P.K. Das)
Member(Judicial)