

**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/2349/2006-SM[BR] *With E/Cross/156/2006-SM*

Date 20/02/2008

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

To :
THE COMMISSIONER OF CENTRAL EXCISE RAIPUR
CENTRAL EXCISE BUILDING, TIKRAPARA, RAIPUR

THE COMMISSIONER OF CENTRAL EXCISE RAIPUR

M/S HIRA INDUSTRIES LTD

Appellant
Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No. 314/2008-SM[BR] dated 23.1.2008
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 HIRA INDUSTRIES LTD

REGISTERED OFFICE 572, URLA INDUSTRIAL AREA,
RAIPUR (CG)

2. Adv. / Consult

NONE-----

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
COURT -II**

**EXCISE APPEAL No. 2349 OF 2006-SM
With Cross Objection No. 156/06-SM**

[Arising out of Order-in-Appeal No. 70/RPR-II/2005 dated 30.12.2005 passed by the Commissioner (Appeals), Central Excise, Customs, Raipur]

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?	

CCE, Raipur

Appellant

Vs.

M/s. Hira Industries Ltd.,

Respondents

Appearance:

Shri B.S. Suhag, DR, for the appellant,
None for the respondents,

Coram:

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

Date of Hearing: 23.1.2008

FINAL ORDER NO. 314/08-sm(BR) dated 23.1.08

Per S.S. Kang:

Heard learned SDR as none appeared for the Revenue.

2. Revenue has filed this appeal against the impugned order whereby credit of Rs. 18300/- was allowed. A show cause notice was issued to the respondents for demand of duty on the ground that the goods received in the factory were under cover of invoice where no duty has been paid. The adjudicating authority dropped the proceedings on the ground that the goods in question were received under the cover of invoice on which duty has been paid. Subsequently, the goods were returned to the manufacturer as the same were defective. After removing the defects the goods were cleared under invoice on which it was mentioned that duty has already been paid and the goods are replacement in lieu of the goods received in the factory. The respondents again taken credit which was reversed at the time of return of the goods. The adjudicating authority allowed the credit. Revenue filed appeal against the adjudication order which was dismissed.

3. In the present appeal the only contention is that the goods received under invoice on which no duty has been paid. From the facts of the case I find that in the invoice following remarks were made:-

“Free replacement” & “Re-issue of duty paid goods duty has already been paid vide our RG23A, Pt II and return by the respondents vide RG23A, Pt-II E.No. 105 dated 04.02.97.”

4. The Revenue is not asking for duty from the supplier of the goods as the duty paid goods were returned to the supplier for removing defects and the same goods have been received in the factory thereafter. Therefore, I find no infirmity in the impugned order. Accordingly, appeal is dismissed. Cross Objection is also disposed of in above terms.

(Dictated & pronounced in the Open Court.)

(S.S. KANG)
VICE PRESIDENT

Dated 28th January, 2008

RK