TELEGRAM : CEGCANAL
Website : www.cestat.gov.in

REGISTERED / AD
Email : delhi@cestat.gov.in

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/2397/2006 -SM [BR] Date 20/02/2008

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

To :
THE COMMISSIONER OF CENTRAL EXCISE
JALANDHAR
JALANDHAR HQRS AT CHANDIGARH, PLOT NO. 19,
SECTOR 17-C, CHANDIGARH

THE COMMISSIONER OF CENTRAL EXCISE
JALANDHAR — Appellant

Vs

M/S ESS ESS KAY ENGG CO LTD — Respondent

I am directed to transmit herewith a certified copy of Final order No.318 /2008 -SM [BR] dated 13.2.2008 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 ESS ESS KAY ENGG CO LTD
   FACTORY AREA, KAPURTHALA
2. Adv. / Consult SHRI. SUDHIR MALHOTRA ADV.
   13- R, HUKAM CHAND COLONY NER DAV COLLEGE JALANDHAR[PB]
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 Publictions (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. 2397 OF 2006-SM

[Arising out of Order-in-Appeal No. 304-306/CHD/2005 dated 24.08.2005 passed by the Commissioner (Appeals), Customs & Central Excise, Jalandhar]

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, Jalandhar Appellant

Vs.

M/s. Ess Kay Engg. Co. Ltd., Respondents

Appearance:

Shri A.K. Rastogi, SDR for the Revenue,
Shri Sudhir Malhotra, Advocate for the respondent

Coram:

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

Date of Hearing: 12th February, 2008

FINAL ORDER NO. 318/08-SM(BR) dated 13.2.08

Per S.S. Kang:

Heard both sides.

2. Revenue filed this appeal against impugned order whereby credit in respect of inputs received in the factory was allowed.

3. Revenue's contention is that vehicle number mentioned in the invoice under which goods were received was fictitious and, therefore, the respondents has taken credit without receiving the inputs. It is also the case of the Revenue that the registered dealer is not having any stock of inputs in their go-down at the time when the disputed invoice was issued.

4. I find that the Commissioner (Appeals) in the impugned order gave a finding of fact after going through the evidence on record that the goods were duly entered in the statutory record of respondents and the same were issued for the manufacture of excisable goods and the final product was cleared on payment of duty. Payment of duty in respect of inputs in question was made through banking channel. The Commissioner (Appeals) also held that it is not the case of the Revenue that the respondents received the inputs from some other source and used in the manufacture of final product. This finding of

fact is not under challenge in the present appeal. Therefore, I find no infirmity in the impugned order. Accordingly, appeal is dismissed.

(Dictated & pronounced in the Open Court.)

(S.S. KANG)
VICE PRESIDENT

Dated 13th February, 2008

RK