

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/499 /2006-500 /2006-SM [BR]

Date 20/02/2008

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

To :
CCE,JAIPUR
N.C.R.BUILDINGSTATUE CIRCLE, C-
SCHEME,JAIPUR

CCE,JAIPUR

M/S CAPITAL IMPEX P LTD

Appellant
Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No.321- 322 /2008-SM[BR] dated 31.12.2007
passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent

(1-2) M/S CAPITAL IMPEX P LTD

G-1071/B,RIICO INDL AREA,PHASE-III,BHIWADI
(RAJ)

2. Adv. / Consult SHRI. L. P. ASTHANA ADV.
R-163, II FLOOR GREATER KAILASH PART-I
NEW DELHI-110048

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. 499-500 OF 2006

[Arising out of Order-in-appeal No. 406-407(MPM)/CE/JPR-I/2005 dated 24.10.2005 Passed by the Commissioner (Appeals-I), Central Excise, 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?	

CCE, Jaipur-I

Appellant

Vs.

M/s. Capital Impex Pvt. Ltd.

Respondents

Appearance:

Shri B.S. Suhag, JDR for the appellant,
Shri L.P. Asthana, Advocate for the respondents.

Coram:

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

Date of Hearing: 31.12.2007

FINAL ORDER NO. 321-22/08-sm(BA) dated 31.12.07

Per S.S. Kang:

Heard both sides.

2. The Revenue has filed these appeals against a common impugned order. The Commissioner (Appeals) in the impugned order set aside the remarks made by the Suptd. on A.R.E-1. The Suptd. of Central Excise made the remarks on A.R.E.-1 regarding the export goods that the said goods exempted under notification, hence, L.U.T. and bond is not required.
3. The contention of the Revenue is that as the goods were exempted from payment of duty, hence, the bond provided under Rule 19 of Central Excise Rules is not required. The contention of the respondent is that the goods were for export, and ultimately were exported, therefore, they have to follow the procedure provided under Rule 19 of the Central Excise Rules. The contention is also that the provisions of Rule 6 of CENVAT Credit Rules are not applicable in respect of goods which were for export. The respondent also relied upon the Board's supplementary instructions which were issued

under CBEC Central Excise Manual, 2005. As per the instructions, input stage rebate is available on export of all finished goods, whether excisable or not. Respondents also relied upon the decisions relied upon in the impugned order.

4. The main contention of the Revenue is that as the goods were exempted, therefore, there is no need to follow the procedure provided under Rule 19 of the Central Excise Rules in respect of goods exported. I find that the provisions of Rule 19 of Rules are specific in respect of export goods. The respondent executed a letter of undertaking in terms of Rule 19 of Central Excise Rules, and the same has been accepted by the Dy. Commissioner of Central Excise. Further, I find that as per the Board's instructions benefit of input stage rebate is available on export of finished goods whether excisable or not. For ready reference, Board's instructions are reproduced below:-

“It may be noted that in rule 19 of the said Rules and in said notification, expression ‘export goods’ has been used. This refers to excisable goods (dutiabale or exempted) as well as non-excisable goods. Thus, the benefit of input stage rebate can be claimed on export of all finished goods whether excisable or not.”

I find that in view of these instructions, and in view of the decision relied upon in the impugned order there is no infirmity in the impugned order. Accordingly, appeals are allowed.

(Dictated & pronounced in the Open Court.)

(S.S. KANG)
VICE PRESIDENT

Dated 31st December, 2007

RK