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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/3701/2006-SM[BR] Date 01/04/2008

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

To :
M/S ARORA AROMATICS
2 KM STONE, MORADABAD ROAD, SAMBHAL(UP)
244302

M/S ARORA AROMATICS Appellant
Vs
C.C.E.MEERUT II Respondent

I am directed to transmit herewith a certified copy of **Final order No**. 537 /2008 –SM[BR] dated 26.3.2008 passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(SM Appeal Branch)

Copy to :
1. Respondent
   C:C.E.MEERUT II
   SAHEED PARK,NEAR ASHOK KI LAT, DELHI ROAD,
   MEERUT.
2. Adv. / Consult
   MR.PRAVEEN SHARMA
   KF-84, KAVI NAGAR, GHAZIABAD
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, NEW DELHI
PRINCIPAL BENCH, NEW DELHI
COURT NO. II

Excise Appeal No. 3701 of 2006 –SM (BR)

(Arising out of Order-in-Appeal No. 152-CE/MRT-II/2006 dated 31.8.2006 passed by the Commissioner (Appeals), Central Excise, Meerut-II)

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?**	No
2.	**Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?**	No
3.	**Whether their Lordships wish to see the fair copy of the order?**	Yes
4.	**Whether order is to be circulated to the Departmental authorities.**	No

M/s Arora Aromatics Appellant

Vs.

CCE, Meerut-II Respondent

Appearance:
Shri Praveen Sharma, Advocate - For appellant
Shri S.L. Meena, SDR - For respondent

CORAM:
HON'BLE MR. S.S. KANG, VICE PRESIDENT

Date of Hearing: 26.3.2008

Final Order No. 537/08-SM(BR) dated 26.3.08

Per S.S. Kang:

Heard both sides.

2. The appellant filed this appeal against the impugned order whereby the credit in respect of aluminium rolled strips in coil form, shapes and sections and IPE beams was

disallowed on the ground that the goods in question are not covered under the scope of capital goods.

3. The contention of the appellant is that the items in question are used as input for the manufacture or fabrication of capital goods which are further used in the manufacture of excisable goods in the factory. This fact was mentioned in reply to show-cause notice specifically and without taking into consideration the adjudicating authority confirmed the demand and Commissioner (Appeals) also has not gone into this issue. As the factual aspect which was stated in the show-cause notice was not controverted by the Revenue, therefore, the credit cannot be denied.

4. The contention of the Revenue is that the lower authority denied the credit only on the ground that the goods in question are not capital goods. The contention is that the IPE beams one of the item in dispute cannot be considered to be input for the manufacture of capital goods, beams are used mostly in the civil construction.

5. I find that the credit in respect of the disputed items was denied on the ground that the same are not capital goods. The contention of the appellant is that the same are used as inputs for the fabrication of capital goods which are further used in the manufacture of final product is not considered by the lower authority and the same also requires verification. In these circumstances, the impugned order is set aside and matter is remanded to the adjudicating authority to decide afresh after affording an opportunity of hearing to the appellant. The appeal is disposed of by way of remand.

(Dictated & pronounced in open Court)

(S.S. KANG)
VICE PRESIDENT

RM