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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/1491/2006- SM[BR] Date 05/09/2008

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

To :
M/S GULATI BROTHERS
C-45,SECTOR-58,NOIDA

M/S GULATI BROTHERS Appellant
Vs
C.C.E. NOIDA Respondent

I am directed to transmit herewith a certified copy of **Final order No**. 1289 / 2008 –SM[BR] dated 14.8.2008 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. NOIDA
   B-123, SECTOR 5, NOIDA.
2. Adv. / Consult
   MR.V. LAXMIKUMARAN
   B-6/10, SAFDARJUNG ENCLAVE, NEW DELHI-110029
3. S.D.R.
4. ~~J.C.D.R.~~
5. Bar association, CESTAT, New Delhi
6. M/s. Deeparchi Publications, M-93, Marg. 46, Saket, New Delhi 110017
7. M/s Centax Publictions (P) Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi -
8. Excise & Customs cases, B-37, Sector -1, NOIDA - 201301 Gautam Budh Nagar, (U.P.)
9. Raghuraman's 44-B, Regal Flat,Shipra Suncity, Indirapuram - 201010,Ghaziabad, DT, U.P.
10. Nidheshak publications, I.P.Estate, new Delhi
11. Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh, New Delhi - 110026
12. Commercial Laws of India Pvt Ltd Post Bag No. 1033, No.70(Old No. 88), Thyagaraya Road, T. Nagar,Chennai 60017
13. Taxindiaonline.com Pvt.Ltd, B-XI/8183,Vasant Kunj, New Delhi - 110070
14. Easy Service Tax Online Dot Com Pvt. Ltd. 407A, Iscon Mall, Above Star India Bazar, Satellite Road, Ahmedabad - 15
15. Office Copy
16. Guard file

Assistant Registrar
(SM Appeal Branch)

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI, PRINCIPAL BENCH NEW DELHI

Excise Appeal No.1491 of 2006-SM (BR)

[Arising out of Order-in-Appeal No.163/CE/APPL/NOIDA/05 dated 31.01.2006 passed by the Commissioner of Central Excise (Appeals), Noida]

Date of Hearing/ Decision:14.08.2008

For approval and signature:

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

1. Whether Press Reporters may be allowed to see 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? : No
4. Whether Order is to be circulated to the Departmental authorities? : Yes

M/s. Gulati Brothers ....Appellants
[Rep. by Shri Maneesh Panda, Advocate]

Vs.

CCE, Noida ...Respondent
[Rep. by Shri Sansar Chand, DR]

CORAM: **Mr. P.K. Das, Member (Judicial)**

Final Order No.1289/08...../Dated:14.08.2008

<u>Per P.K. Das</u>:

The Appellant filed this appeal against Order-in-Appeal No.163/CE/APPL/NOIDA/05 dated 31.01.2006 passed by the Commissioner of Central Excise (Appeals), Noida.

2. A show cause notice dated 23.11.2004 was issued proposing to reject the rebate claim filed by the Appellant for Rs.2,41,172/- in respect of export goods covered under ARE-1 No. 2/2004. The Adjudicating Authority sanctioned the rebate claim, which was upheld by Commissioner (Appeals). The ld. Advocate submits that the Appellant filed appeal before the Commissioner (Appeals) on the ground that they have reversed the Credit on Bright Steel Bars under protest and, therefore, the Adjudicating Authority sanctioned the rebate but he has not considered the reversal of Credit under protest. The Commissioner (Appeals) rejected the appeal. Hence, the Appellant filed this appeal.

3. After hearing both the sides and on perusal of the records, I find that the main grievance of the ld. Advocate is that they have reversed the Credit on Bright Steel Bars under protest and the Adjudicating Authority had not decided the eligibility of the Credit.

4. On perusal of the Adjudication Order, it is revealed from the Adjudication Order that the Appellant submitted that they have reversed the full amount of Credit of duty on Bright Steel Bars along with interest for the period upto Jan. 2005 and further they are taking Credit on Bright Steel Bars separately under protest and not utilising it. It has been observed by the Adjudicating Authority that the Appellant reversed the full amount of Credit of duty on Bright Steel Bars along with interest. They are entitled to rebate claim. The present case relates to ARE 1 No.2/2004-05 dated 18.04.2004. On a query from the Bench, the ld.

Advocate submits that the Appellants were taking Credit on Bright Steel Bars under protest after January, 2005. The present case relates to prior January, 2005. In any event, show cause notice was issued for rejecting of rebate claim and, thereafter, the submission of the ld. Advocate has no merit. Accordingly, I do not find any reason to interfere the order of the Commissioner (Appeals). The appeal field by the Appellant is rejected.

Order dictated & pronounced in open court on 14.8.2008.

(P.K. Das)
Member (Judicial)

Ckp.