

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/3410/2006 - SM[BR]

Date 17/09/2008

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

To :
M/S SWARAJ MAZDA LTD.
VILLAGE-ASRON, POST BAG NO 38, ROPAR.
M/S SWARAJ MAZDA LTD.

Appellant

Vs
Respondent

C.C.E.JALANDHAR

I am directed to transmit herewith a certified copy of **Final order No. 1325 / 2008 - SM[BR]** dated 3.9.2008
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.JALANDHAR

HQ AT CHANDIGARH, PLOT NO 19, SECTOR 17-C, CHANDIGARH.

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 Publications (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

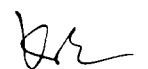
12. Commercial Laws of India Pvt Ltd Post Bag No. 1033, No.70(Old No. 88), Thyagaraya Road, T. Nagar, Chennai 60017

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.3410 of 2006 –SM (BR)

[Arising out of Order-in-Appeal No.225-CE/APPL/2006 dated 20.07.2006
passed by the Commissioner of Central Excise (Appeals), Chandigarh]

Date of Hearing/ Decision:3.9.2008

For approval and signature:

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

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- | | | |
|--|---|------|
| 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? | : | } m |
| 3. Whether Their Lordships wish to see the fair copy
of the Order? | : | |
| 4. Whether Order is to be circulated to the Departmental
authorities? | : | } ym |
-

M/s. Swaraj Mazda Ltd.

...Appellants

[Rep. by Shri Narshiman, Advocate]

Vs.

CCE, Jalandhar

....Respondent

[Rep. by Shri Sansar Chand, DR]

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

Final Order No. 1325/08-SM(CBR) /Dated: 3.9.2008

Per P.K. Das:

The Appellant filed this appeal against rejection of refund claim on the ground that the Appellant failed to produce any evidence that the incidence of duty has not been passed on to any other person.

2. After hearing both the sides and on perusal of the records, it is seen that the Adjudicating Authority proceeded on the basis of certificate issued by the jurisdictional Superintendent of Central Excise certifying that the amount of duty has been reversed by the buyer.

3. In this regard, ld. Advocate drew the attention of the Bench to the Certificate dated 13.10.2006 certifying that the Appellant has not recovered the excess amount against Invoice No.8061 dated 23.12.2004 bearing Chasis No.86926 from M/s. Industrial Links. It is seen that the Adjudicating Authority has not considered the Certificate issued by the buyer.

4. In view of that, the impugned order is set aside and the matter is remanded back to the Adjudicating Authority to decide afresh after considering the Certificate and any other documents, if the Appellants produce at the time of hearing and to pass order in accordance with law. The appeal is allowed by way of remand.

Order dictated & pronounced in open court on 3.9.2008.

(P.K. Das)
Member (Judicial)

Ckp.