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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/713 /2006-SM[BR]

Date 30/05/2008

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

To :
CCE,GHAZIABAD
CGO COMPLEX-II,KAMLA NEHRU
NAGAR,GHAZIABAD.
CCE,GHAZIABAD

Appellant
Vs
Respondent

M/S MAJESTIC AUTO LTD.

I am directed to transmit herewith a certified copy of **Final order No**. 828 /2008 –SM[BR] dated 28.3.2008

passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(SM Appeal Branch)

Copy to :
1. Respondent

M/S MAJESTIC AUTO LTD.

10TH KM STONE,G.T.ROAD,P.O.DUJANA,G.B.NAGAR

2. Adv. / Consult SHRI V.K. AGARWAL ADV.
B-82, LAJPAT NAGAR PART-II
NEW DELHI-110024

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. Office Copy
15. Guard file

Assistant Registrar
(SM Appeal Branch)

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, R.K. PURAM, W.B. NO.2, PRINCIPAL BENCH NEW DELHI, COURT NO. III

Excise Appeal No. 713 of 2006 -SM (BR)
[Arising out of order in Appeal No. 08-CE/GBD/2006 dated 17.01.2006 passed by the Commissioner (Appeals) Central Excise, Ghaziabad]

Date of Hearing/ Decision: 28.03.2008

For approval and signature:

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

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 should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	: N.
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, Ghaziabad — Appellant
[Rep. by Mr. A. K. Rastogi, DR]

Vs.

M/s Majestic Auto Limited — Respondent
[Rep. by Mr. V.K. Agarwal, Advocate]

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

Final **ORDER** No. 828/08-SM(BR)

Per P.K. Das:

Heard both sides and perused the record.

2. The Respondent availed Cenvat credit on inputs/capital goods on the basis of the invoices, wherein, the suppliers mentioned the brand name "Hero Puch" or "Hero Motors" of the Respondent's company and their address. The Adjudicating Authority denied credit on the ground that the invoices do not bear the Respondent's name. The Commissioner (Appeals) set aside the adjudication order.

3. Learned Advocate on behalf of the Respondent placed the copy of invoice. It is seen that the invoices were issued with full address of the Respondent. It is contended by the Ld.DR that the mere mention of brand name known in the Trade Parlance does not make them eligible for having taken credit.

4. I find that there is no dispute that the goods in question were received by the Respondent and were used in the manufacture of the final product and duly recorded in the Register. The Central Board of Excise & Customs vide Circular No. 441/7/99-CX dated 23.2.1999 clarified that in terms of sub-rule (1) in Rule 57G and sub-rule 30 of Rule 57T of the erstwhile Central Excise Rules, 1944, the Assistant Commissioner of Central Excise may allow the credit on duty paid on

inputs/capital goods in minor procedural lapses in filing the declaration or in the invoices/ documents, based on which credit is to be taken. However, the Assistant Commissioner should ensure inputs / capital goods have suffered duty and are being used/ are to be used in the process of manufacture. In the present case, there is no dispute that the inputs/ capital goods have suffered duty and were used in the manufacture of final products. In any event, brand name of the Respondent with their address instead of Company's name in the invoices establishes ownership of the goods. So, the Commissioner (Appeals) rightly allowed the credit. Accordingly, I do not find any reason to interfere the order of the Commissioner (Appeals). The appeal filed by the Revenue is rejected.

(Order dictated and pronounced in the open Court)

(P.K. Das)
Member (Judicial)

Ckp