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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/1464 – 1465 /2006-SM[BR] Date 11/08/2008

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

To :
C.C.E. JAIPUR I
N.C.R.BUILDING, STATUE CIRCLE, "C" SCHEME,
JAIPUR 302005.

C.C.E. JAIPUR I Appellant
Vs
M/S SPECIAL ENGG SERVICES LTD Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 1116 – 1117 /2008-SM[BR] dated 16.6.2008 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 SPECIAL ENGG SERVICES LTD
118,TONK ROAD,DURGAPURA,JAIPUR
2. Adv. / Consult SHRI BIPIN GARG ADV.
B-1 /1289 –A, VASANT KUNJ NEW DELHI -70

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 Appeals Nos.1464-65 of 2006-SM (BR)

[Arising out of common Order-in-Appeal No.10-11(MPM)CE/JPR-I/06 dated 12.01.2006 passed by the Commissioner of Central Excise (Appeals), Jaipur]

Date of Hearing/ Decision:16.06.2008

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? :
4. Whether Order is to be circulated to the Departmental authorities? :

NA

CCE, Jaipur-I ...Appellants
[Rep. by Shri B. S. Suhag, DR]

Vs.

M/s. Special Engg. Service Ltd. ....Respondent
[Rep. by Shri Bipin Garg, Advocate]

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

Final Order No...1116/08 to 1117 SM(BR)/Dated:16.6.2008

Per P.K. Das:

Both the appeals are arising out of a common order and, therefore, both the appeals are taken up together for disposal.

2. After hearing both the sides and on perusal of the records, it is seen that the issue involved in this case is as to whether the Respondents may avail Modvat/Cenvat Credit facility in respect of inputs and capital goods on the clearance of waste and scrap or by-product generated during the course of manufacture of job work materials namely Bearing Races/Components cleared without payment of duty in terms of Notification No.214/86-CE dated 1.3.86.

3. Ld. Advocate on behalf of the Respondents submits that the Tribunal in their own case vide Final Order No.654/2008-SM (BR) dated 20.02.2008 allowed the appeal filed by he assesses following the decision of the Division Bench of the Tribunal in he case of CCE Vs. Allwyn Auto Ltd. reported in 2004 (178) ELT 693 (Tribunal-Bangalore). It has also been pointed out that ~~by~~ the Larger Bench of the Tribunal in the case of Sterlite Industries Ltd. Vs. CCE, Pune reported in 2005 (183) ELT 353 (Tribunal-LB), wherein it has been held that modvat credit of duty paid on inputs used in the manufacture of final product cleared without payment of duty for further utilization in the manufacture of final product, which are cleared on payment of duty by principal manufacturer, not hit by provisions of Rule 57-C of the erstwhile Central Excise Rules, 1944. In the present case, the appellants cleared the Bearing Races without payment of duty under Notification No.214/86-CE dated 1.3.86 to the principal manufacturer, who cleared the goods on payment of duty.

Thus, there is no dispute that the waste and scrap generated during the manufacture of Bearing Races, which is an excisable goods and there is no reason to deny the credit utilized on the clearance of waste and scrap generated during the manufacture by the job work material.

4. In view of the above discussions, I do not find any merit in the appeals of the Revenue. Accordingly, both the appeals are rejected.

Order dictated & pronounced in open court on 16.06.2008.

(P.K. Das)
Member (Judicial)

Ckp.