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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/1400/2006-SM[BR] Date 28/08/2008

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

To :
C.C.E. RAIPUR
CENTRAL EXCISE BUILDING, DHAMTARI ROAD,
TIKRAPARA, RAIPUR 492001.

C.C.E. RAIPUR Appellant
Vs
M/S JYOTI ENTERPRISE, Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 1203 / 2008 -SM[BR] dated 13.8.2008 passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(SM Appeal Branch)

**Copy to :**
1. Respondent
   M/S JYOTI ENTERPRISE,
   CHAVNI CHOWK,NANDINI ROAD,BHILAI (CG)
2. Adv. / Consult
   NONE;---------------

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)

## CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
West Block No.2, R.K Puram, New Delhi-110066

**COURT-IV**

Date of hearing: 13.8.2008

Appeal No.E/1400/2006-SM(BR)

(Arising out of Order-in-Appeal No. 08/RPR-II/2006 dated 31.01.2006 passed by the Commissioner (Appeals-I) Customs & Central Excise, Raipur)

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 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?

3. Whether Their Lordships wish to see the fair copy of the Order?

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

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C.C.E. Raipur — Appellant/Applicant (Rep. by Shri R.K. Saini, DR)

Vs.

M/s Jyoti Enterprise — Respondent (None)

Coram: Hon'ble Mr. P.K. Das, Member (Judicial)
Final Order No. 1203/08-SM(BR)

Per: P.K. Das:

Revenue filed this appeal against Order in Appeal No. 08/RPR-II/2006 dated 31.01.2006.

2. After hearing the ld. DR and on perusal of the records, it is seen that the Respondent is a Registered Dealer, who issued invoices to the manufacturer of M/s Chakra Rolling Mills (P) Ltd. It has been alleged that the Respondent issued the invoice ~~with~~ only and had not supplied the goods to the manufacturer. It is seen from the records that a proceeding was initiated to deny a Cenvat Credit to the manufacturer in connection with the present case. Commissioner (Appeals) in his earlier Order-in-Appeal Nos. 02 & 03/RPR-II/2006 dated 13.01.2006 dropped the proceeding against the manufacturer, which has been upheld by the Tribunal vide Final Order No. 560-561/08-SM(BR) dated 12.03.2008 (CCE, Raipur) Vs. M/s Chakra Rolling Mills (P) Ltd. The relevant portion of the said decision of the Tribunal is reproduced:-

"Revenue filed these appeals against Order-in-Appeal No. 02 & 03/RPR-II/2006 dated 13.01.2006, whereby Commissioner (Appeals) set aside the adjudication order. It has been alleged that the respondent availed Cenvat Credit on the basis of the invoices without receiving the goods. The allegation is based on ground that the price of the inputs is Cheaper and the Vehicle no. mentioned in the invoice is unable to carry such quantity of materials. It is seen from the order of the Commissioner (appeals) that the supplier of the inputs erroneously mentioned the truck no. CG-07ZC-2022. which should be CG-07/ZC-3022. It revealed from the impugned order that M/s Jyoti Enterprises, Registered Dealer, have confirmed that the current registration no. of the vehicle was CG-07/ZC/3022. I find that the Commissioner (Appeals) examined the records and the documents and it is proved that the respondent received the goods at their factory. Therefore, I do not find any reason to interfere the order of the Commissioner (Appeals). Accordingly, the appeals filed by the Revenue are rejected."

3. In view of the above decision of the Tribunal, I do not find any merits in the appeal of the Revenue. Accordingly, the appeal filed by the Revenue is rejected.

(Dictated and pronounced in the open court.)

(P.K. Das)
Member (Judicial)

K. Gupta