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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/1908/2006 – SM[BR] E / CO /152 / 2008 –SM[BR] Date 25/11/2008

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 VENKATESH STRIPS P LTD. Respondent

I am directed to transmit herewith a certified copy of **Final order No**. 1502 / 2008- **SM[BR]** dated 16.10.2008 passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(SM Appeal Branc

Copy to :
1. Respondent
   M/S VENKATESH STRIPS P LTD.
   URLA INDL CO,PLEX URLA,RAIPUR(CG)
2. Adv. / Consult SHRI L.P.ASTHANA ADV.
   R-163 , G.K.- PART-I
   NEW DELHI

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 - 3
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
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-1
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

Appeal No.1908 of 2006-SM (BR)
In Appeal No.E/CO/152/08

[Arising out of Order-in-Appeal No.039/RPR-I/2006 dated 16.3.2006 passed by the Commissioner of Central Excise (Appeals), Raipur]

Date of Hearing/ Decision:16.10.08

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.		No.
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?	:	Yes

CCE, Raipur ...Appellants
[Rep. by Shri R.K. Verma, DR]

Vs.

M/s. Venkatesh Strips (P) Ltd. ...Respondent
[Rep. by Shri L.P. Asthana and Shri A. Jaju, Advocate]

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

Final Order No. 15021/08-SM (BR) /Dated:16.10.2008

Per P.K. Das:

Heard both sides and perused the records.

2. The present appeal arises out of the remand order of the Tribunal vide Final Order No.413-414/05-C dated 08.04.2005 as reported in 2005 (189) ELT 74 (T-D).

3. The findings of the Tribunal's remand order is reproduced below:-

> "10. We also find that the Government had issued Notification No.58/97, dated 30.08.1997 prescribing deemed credit of duty at the rate of 12% of the value for hot rolled products of non-alloys steel and the appellants have, therefore, become entitled for deemed credit on H.R. steel used for the manufacture of tubes. Therefore, the duty on the tubes needs re-determination after allowing the deemed credit on H.R. strips."

4. The Adjudicating Authority denied the benefit of deemed credit on the ground that the Respondent had not followed the conditions of exemption Notification No.58/97-CE dated 30.08.97. The Commissioner (Appeals) set aside the adjudication order. Hence, the Revenue filed this appeal. The main contention of the ld. DR that the Respondent had not followed para-4 of the Notification as under:-

> "4. The provisions of this notification shall apply to only those inputs which have been received directly by the manufacturer of the final products from the factory of the manufacturer of the said inputs under the cover of an invoice declaring that the appropriate duty of excise has been paid on such inputs under the provisions of Section 3 A of the said Act."

5. On perusal of the records, I find that there is no dispute of the fact that the Respondent manufactured strips out of the billets, which were used for the manufacture of pipes and tubes. The Respondent discharged duty liability on strips and availed deemed credit in terms of the said Notification on the strips manufactured by them and used captively. The allegation in the show cause notice that in order to avail the deemed credit, as per Notification, inputs should have been received directly from

the manufacturer and the payment of duty on inputs was required to be made by cheque drawn on his bank account or by bank draft or by banker's cheque. It is seen that in the present case, the Respondent themselves manufactured the goods and used captively in the manufacture of final product. It is revealed from the order of the Commissioner (Appeals) that the Respondent paid duty on strips in terms of the determination made by the Commissioner of Central Excise, Raipur. So, the payment of duty is not in dispute. Hence, it is proved that the Respondent complied with the conditions of the Notification. The Commissioner (Appeals) rightly set aside the adjudication order. Accordingly, I do not find any reason to interfere with the order of the Commissioner (Appeals). The appeal filed by the Revenue is rejected.

dictated & pronounced in open court on 16.10.2008.

(P.K. Das)
Member (Judicial)

Ckp.