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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**

Date 27/11/2008

Appeal No. E/3129/2006 – SM[BR]

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

To :
M/S SUPREME POLYMERS PVT LTD
136-137,INDUSTRIAL AREA,JHOTWARA,JAIPUR(RAJ) Appellant
Vs
M/S SUPREME POLYMERS PVT LTD Respondent

C.C.E.JAIPUR I

I am directed to transmit herewith a certified copy of **Final order No**. 1538 / 2008- **SM[BR]** dated 7.10.2008 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.JAIPUR I
   NCRB,STATUE CIRCLE,C-SCHEME,JAIPUR.
2. Adv. / Consult
   MR.K.K ANAND
   A-5,BASEMENT,LAJPAT NAGAR-III NEW DELHI-24
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). Thyagarava Road. T. Nagar.Chenn
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. Office Copy
16. Guard file

Assistant Registr
(SM Appeal Branc

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
COURT NO.II

E/Appeal No.3129/2006 -SM

(Arising out of order in appeal No.157/MPM/CE/JPR.I/06 dated 29.5.06 passed by the Commissioner of Central Excise (Appeals), Jaipur-I)

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 ?
3. Whether Their Lordships wish to see the fair copy of the Order ?
4. Whether Order is to be circulated to the Departmental authorities?

No

Yes

M/s Supreme Polymers Pvt Ltd — Appellant
(Rep. by Shri Hemant Bajaj, Advocate)

Vs

CCE, Jaipur-I — Respondent
(Rep. by Shri K.K. Goel, DR)

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

Date of Hearing: 7.10.08

Final Order No. 1538 /2008-SM(BR)

Per P.K. Das:

After hearing both the sides and on perusal of the record, it is seen that the appellant received rejected duty paid goods and availed credit thereon. Subsequently, they sold the goods to another buyer at lower rate and paid Central Excise duty of Rs.81,375/-. It has been alleged that the appellants cleared the goods on payment of duty of Rs.1,72,800/- and therefore, they have to pay the differential duty on the subsequent clearance of goods.

2. I find that the Tribunal in the case of Jinabakul Forge Pvt Ltd Vs CCE Belgaum reported in 2007 (220) ELT 210 (Tri. Bang.) held that rejected goods received back in the factory for repair and rectification and Cenvat credit taken thereon under Rule 16(1) of Central Excise Rules, 2002 are liable to pay the duty amount equal to Cenvat credit taken on earlier occasion. In view of the decision of the Tribunal, I find that the lower authorities have rightly demanded duty from the appellants. Accordingly, I do not find any merit in the appeal of the appellants. The appeal is rejected.

(Order dictated and pronounced in the open Court).

(P.K. Das)
Member(Judicial)

MPS*