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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/3280/2006 – SM[BR] Date 27/11/2008

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

To :
M/S A.M.INDUSTRIES
MUZAFFARNAGAR ROAD,SHAMLI,DISTT-
MUZAFFARNAGAR.

M/S A.M.INDUSTRIES Appellant
Vs
C.C.E.MEERUT I Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 1540 /2008 - **SM[BR]** dated N 20.10.2008

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.MEERUT I
MANGAL PANDEY NAGAR,OPP C.C.S UNIVERSITY,MEERUT.
2. Adv. / Consult
MR.AALOK ARORA,ADV
82-MISSION COMPOUND,SAHARANPUR (U.P.)

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

Excise Appeal No.3280 of 2006-SM (BR)

[Arising out of Order-in-Appeal No.91-CE/MRT-I/2006 dated 23.06.2006 of the Commissioner of Central Excise (Appeals), Meerut (U.P.)]

Date of Hearing/ Decision:20.10.08

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.
2. Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not? : No
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.

M/s. A.M. Industries ...Appellants
[Rep. by Shri Alok Arora, Advocate]

Vs.

CCE, Meerut ....Respondent
[Rep. by Shri S.K. Pandey, DR]

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

Final Order No. 1540108-SM(BR)/Dated:20.10.2008

Per P.K. Das:

The relevant facts of the case, in brief, are that the Appellants have been engaged in the manufacture of dutiable and exempted goods viz.

wheel rims for animal driven vehicles and wheel rims for harvester combine. They had been availing Modvat credit on common inputs used in the manufacture of dutiable and exempted goods. The appellants had been maintaining separate accounts for the year 1999-2000. From 1.4.2000, they had been maintaining common records for the inventory of inputs, which were used in the manufacture of dutiable as well as exempted final product and paid the amount of 8% Adv. on the value of exempted goods at the time of clearance. At the end of financial year 1999-2000, there was stock of inputs and no modvat credit was taken and the goods were cleared without reversing the amount of 8% Adv. during the period 1.4.2000 to 21.4.2000. The Audit party advised them to reverse the amount of Rs.53,700/- on the clearance of finished goods during the said period under Rule 57 CC of the erstwhile Central Excise Rules. The Appellants reversed the amount at the instance of the Audit party. Subsequently, they filed a refund claim of Rs.53,700/-, which was rejected by the Adjudicating Authority and upheld by the Commissioner (Appeals).

2. After hearing both the sides and on perusal of the records, it is seen that the Commissioner (Appeals) observed that the Appellants failed to produce any evidence to establish that non-modvatable inputs used in the manufacture of exempted goods were cleared during the said period. In this connection, ld. Advocate drew the attention of the Bench to the

reply to the show cause notice dated 20.11.2004, wherein the Appellants categorically stated that the finished goods i.e. ADV Wheel Rims of 1287 Nos. were cleared during the period were manufactured from the inputs purchased from the open market. They produced the copy of the Purchase Bill of the inputs. It is also contended that the quantity of 293 Nos. of Harvester Combino Rim of 17 Nos. were laying in stock as revealed from the RT-12 Return for the month of March, 2001.

3. In view of the above submission of the ld. Advocate and the evidences produced by him, I find that the matter is required to be verified by the Adjudicating authority ~~Commissioner (Appeals)~~. Accordingly, the matter is remanded back to the Adjudicating Authority to verify the evidences as placed by the ld. Advocate. The appeal is allowed by way of remand.

Order dictated & pronounced in open court on 20.10.08

(P.K. Das)
Member (Judicial)

Ckp.