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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/701 /2007 – SM[BR] Date 28/11/2008

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

To :
C.C.E, ROHTAK

17-P, SECTOR-I, ROHTAK

C.C.E, ROHTAK Appellant

Vs

HAND FAB INDIA Respondent

I am directed to transmit herewith a certified copy of **Final order No**. 1546 / 2008 - **SM[BR]** dated 6.10.2008 passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(SM Appeal Branch)

Copy to :
1. Respondent

HAND FAB INDIA

MAHABIR COLONY , JATAL ROAD, PANIPAT.

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 - 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)

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

COURT-II

E/Appeal No. 701/2007-SM

(Arising out of order in appeal No. 361/NS/Rtk/06 dated 18.12.06 passed by the Commissioner of Central Excise (Appeals), Rohtak)

For approval and signature:

Hon'ble Mr. P.K. Das, Member (Judical)

Date of Hearing/Decision: 06.10.2008

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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? y-n

N

CCE, Rothak — Appellant (Rep. by Shri A.K. Rastogi, DR)

Vs.

M/s Hand Fab India — Respondent (Rep.by Shri Bipin Garg, Advocate)

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

Final Order No. 1546/08-SM(BR)

Per: P.K. Das

The Revenue filed this appeal against the order in appeal dated 18.12.2006 passed by the Commissioner of Central Excise (Appeals).

2. The issue involved in this case is whether the respondent is eligible for refund of AED(T&T) and credit lying un-utilized since the finished goods exported by the appellant do not attract AED(T&T) under Rule 5 of Cenvat Credit Rules, 2002. The main contention of the learned DR is that the respondents have been granted rebate of duty under Rule 18 of Central Excise Rules for exported goods. Therefore, they are not entitled to avail the benefit under Rule 5 of Cenvat Credit Rules, 2002.

3. After hearing both the sides and on perusal of the records, I find that the identical issue was decided by the Tribunal in favour of the assessee in the case of CCE Rohtak Vs. Indo Dane Textile Industries reported in 2007 (213) ELT 117 (Tri.Del). The learned Advocate on behalf of the respondent placed a copy of order of Hon;ble High Court of Punjab & Haryana at Chandigarh in Central Excise Appeal No. 81 of 2007. The appeal filed by the Revenue was dismissed. The question of law for determination before the Court was as under:

> "Whether refund of Cenvat Credit paid on inputs (AED (T&T) used in the manufacture of final products exported under rebate claim under Rule 18 of Central Excise Rules

2002 on payment of duty is allowed under Rule 5 of Central Credit Rules 2002."

4. I find that the Hon'ble High Court has already dismissed the appeal filed by the Revenue on the identical issue. Therefore, I do not find any reason to interfere with the order of Commissioner (Appeals). Accordingly, the appeal filed by the Revenue is rejected.

(Dictated and pronounced in the open court).

(P.K. Das)
Member (Judicial)

MPS