TELEGRAM : CEGCANAL
Website : www.cestat.gov.in

REGISTERED / AD
Email : delhi@cestat.gov.in

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/738 /2007,752 /2007 – SM [BR] Date 03/12/2008

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

To :
C.C.E, CHANDIGARH
C.R.BUILDING, PLOT NO. 19, SECTOR-17-C,
CHANDIGARH
C.C.E, CHANDIGARH

Appellant
Vs
Respondent

RAGHAV ALLOYS LTD.

I am directed to transmit herewith a certified copy of **Final order No**. 1573 – 1574 /2008- **SM[BR]** dated 27.11.2008 passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent

1. RAGHAV ALLOYS LTD.
2. DARSHAN KUMAR GULSHAN KUMAR
MANDI GOBINDGARH

2. Adv. / Consult SHRI K.K.ANAND ADV.
A-5 [BASMENT] 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), 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 APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH – COURT NO. 1

Excise Appeal Nos. 738 & 752 of 2007-SM

(Arising out of Order-in-Appeal No. 1003-04/CE/CHD/06 dated 24.10.2006 passed by the Commissioner of Customs & Central Excise (Appeals), Chandigarh).

DATE OF HEARING : 27.11.2008
DATE OF DECISION : 27.11.2008

FOR APPROVAL AND SIGNATURE :

HON'BLE MS. JYOTI BALASUNDARAM, VICE-PRESIDENT

1.	Whether Press Reporters may be allowed to see the order for publication as per Rule 27 of the 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 ?	No
3.	Whether their Lordships wish to see the fair copy of the Order ?	Seen
4.	Whether Order is to be circulated to the Departmental Authorities?	Yes

CCE, Chandigarh .... **Appellant**
(Rep by Sh. S.K. Bakshi, DR)

versus

M/s Raghav Alloys Ltd.
Darshan Kumar Gulshan Kumar .... **Respondents**
(Rep. by Sh. Hemant Bajaj, Adv.)

CORAM : HON'BLE MS. JYOTI BALASUNDARAM, VICE-PRESIDENT

Final **ORDER NO.** 1573 - 1574/2008 - SM(BR)

PER JYOTI BALASUNDARAM :

The Revenue is aggrieved by the order of the Commissioner (Appeals) setting aside the duty demand of Rs. 31,944/- and Rs. 82,517/- against Darshan Kumar Gulshan Kumar and M/s Raghav Alloys Ltd. respectively and penalty of equal amount imposed upon the respondents.

2. The case of the Department is that, duty is leviable for the reason that the respondents wrongly availed the Cenvat credit on the strength of invoices without receipt of any inputs from M/s Naveen Ispat Industries.

3. I have heard both sides. I find that the case of the Department is made out on the basis of octroi slips showing that inputs were supplied to one M/s Bhumra Steel Industries & Ors. However, the statement of the Officer of M/s Bhumra Steel was recorded in which he denies ever having dealt with M/s Naveen Ispat Industries. The statement of the consignor, namely, M/s Naveen Ispat Industries has also been recorded in which he categorically stated that inputs were supplied to the respondents herein and produced documents to show that they received the inputs and utilized them in the manufacture of final products which were cleared on payment of duty. In this view of the matter, the fact that the quantity of inputs and the truck numbers shown in the octroi slips tallied is not sufficient to hold that no goods were ~~ever~~ received by the respondents, but that only invoices were received by them for the

purpose of availing inadmissible credit. Further, the Commissioner (Appeals) has also relied upon his earlier order-in-appeal no. 375-82/06 dated 28.04.2006. I note that this order-in-appeal was challenged by the Revenue by way of filing appeal nos. E/2496-2499/06 & 2500-2503/06 and the Tribunal vide its Final Order No. 1315A-1322/08-SM dated 03.06.2008 upheld the impugned order of the Commissioner (Appeals) who had set aside the proceedings initiated against those respondents and rejected the appeals of the Revenue. Following the ratio of the Tribunal's order cited (supra) and on the basis of the evidence on record showing that inputs were received by the respondents for utilization in the manufacture of finished products cleared on payment of duty, I hold that no case is made out by the Revenue, uphold the impugned order and reject the appeals.

(Dictated and pronounced in the open Court on the 27th day of November, 2008)

(JYOTI BALASUNDARAM)
VICE-PRESIDENT

Golay