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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/1318/2007 – SM[BR] Date 02/01/2009

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

To :
M/S SHRI HARE KRISHNA SPONGE IRON PVT. LTD.
PHASE-II, SILTARA INDUSTRIAL AREA, RAIPUR
(C.G.)

M/S SHRI HARE KRISHNA SPONGE IRON PVT. LTD. Appellant

Vs

C.C.E. RAIPUR Respondent

I am directed to transmit herewith a certified copy of **Final order No**. 1624 / 2008 –SM [BR] dated 16.12.2008 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. RAIPUR
   CENTRAL EXCISE BUILDING, DHAMTARI ROAD, TIKRAPARA, RAIPUR 492001.
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)

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.
Principal Bench, New Delhi

COURT NO. IV
Excise Appeal No. 1318 of 2007 (SM)

[Arising out of the Order-in-Appeal No. 19/ST/RPR-I/2006 dated 19/12/2006 passed by The Commissioner (Appeals-I), Central Excise & Customs, Raipur.]

For Approval and signature :
Hon'ble Shri Rakesh Kumar, Member (Technical)

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 would 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 Department Authorities?	:

M/s Shri Hare Krishna Sponge Iron Pvt. Ltd. Appellant

Versus

CCE, Raipur Respondent

Appearance

Shri Atul Gupta, C.S. – for the appellant.

Shri A.K. Rastogi, Authorized Representative (DR) – for the respondent.

CORAM : **Hon'ble Shri Rakesh Kumar, Member (Technical)**

DATE OF HEARING : 16/12/2008.

Final Order No. 1624/08-SM (BR) Dated : 16-12-08

Per. Rakesh Kumar :-

Heard both the sides.

2. The issue involved in this case is as to whether during period prior to 16/06/05 TR-6 challan was valid document for taking Cenvat credit of the Service Tax paid on the service received from Road Transport Agencies.

2.1 Shri Atul Gupta, Company Secretary, learned Counsel appearing for the appellant pleaded that this issue has already been decided in favour of the appellant by the Tribunal's order NO. ST/325/08 dated 17/10/08, wherein the Tribunal relying upon its earlier decision in the case of **CCE vs. Crompton Greaves Ltd.** reported in **2008 (226) E.L.T. 117** and also in case of **CCE vs. Essel Pro-Pack Ltd.** reported in **2007 (8) S.T.R. 609** held that during period prior to 16/06/05 Cenvat credit of service tax paid on the GTA service received by a manufacturer could be availed on TR-6 challan.

2.2 The learned Departmental Representative, however, pleaded that during the period prior to 16/06/05, TR-6 challan could not included is not valid document in 2006 and the same was included only w.e.f. 16/06/05 by Notification No. 28/05-CE.

3. I have carefully considered the submissions from both the sides. The issue involved in this case is squarely covered in favour of the appellant by the judgment of the Tribunal in the case of M/s Gaurav Krishna Ispat (I) Pvt. Ltd. [order No. ST/345 of 2007 dated 17/10/2008]. No contrary judgment on this issue has been pointed out by the learned Departmental Representative. In view of this, the impugned order is not sustainable and the same is set aside. The appeal is allowed.

(Dictated and pronounced in open court.)

(Rakesh Kumar)
Member (Technical)

PK