

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/3597/2006 – SM [BR]

Date 05/01/2009

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

To :
M/S BHARAT HEAVY ELECTRICAL LTD
SR.DY GM(TAXATION) M/S BHARAT HEAVY
ELECTRICAL LTD, BLOCK VI ANNEX WWGF, P.O.
PIPLANI, BHOPAL
M/S BHARAT HEAVY ELECTRICAL LTD

Appellant

Vs

Respondent

C.C.E.BHOPAL

I am directed to transmit herewith a certified copy of **Final order No. 1644 / 2008- SM[BR]** dated 28.11.2008

passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944


Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent

C.C.E.BHOPAL

48, ADMINISTRATIVE AREA, AREA HILLS, BHOPAL

2. Adv. / Consult

MR.Z. U. ALVI

D-8,BDA COLONY, ADJACENT GARUDA TRAVELS. KOH-E-FIZA BHOPAL-01

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 Publications (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), Thvagarava 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,
R.K. PURAM, W.B. NO.2, PRINCIPAL BENCH
NEW DELHI, COURT NO.I**

Excise Appeal No. 3597 of 2006-SM

[Arising out of Order-in-Appeal No. 194-198-CE/BPL/2006 dated 19.09.2006
passed by the Commissioner (Appeals), Customs & Central Excise, Bhopal]

Date of Hearing/ Decision : 28.11.2008

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

M/s Bharat Heavy Electricals Limited

Appellant

Vs.

CCE, Bhopal

Respondent

Appearance:

Mr. Z.U. Alvi, Advocate for the appellant

Mr. S. Gautam, DR for the respondent

CORAM: Ms. Jyoti Balasundaram, Vice President

Final Order No. 1644/08-SM(DR)

Per Jyoti Balasundaram:

The appellants challenge the order of the Commissioner (Appeals) in so far as it relates to denial of credit of Rs. 4,54,123/- together with interest on the ground that credit of this amount was availed on the strength of original invoice which was not a valid duty paying document for the purpose of taking credit and that only the duplicate copy for the transporter ^{was} of the valid duty paying document for such purpose.

2. I have heard both sides and I find that the appellants are entitled to credit of the amount in question in the light of the decisions of the Tribunal in the case of CCE, Coimbatore Vs. Sri Krishna Paper Industries - 1999 (105) ELT 431 (Tribunal) and CCE, Ludhiana vs. Ralson India Ltd., -2006 (202) ELT 759 (P&H).

3. Following the ratio of the above decisions, I set aside the denial of credit and allow the appeal.

[Dictated and pronounced in the open Court]

[Jyoti Balasundaram]
Vice President

[Pant]