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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/2955/2005-SM[BR] Date 28/04/2008

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

To :
M/S SPECIAL ENGG. SERVICES LTD.
118, TONK ROAD , DURGAPURA
JAIPUR [RAJASTHAN]
M/S SPECIAL ENGG. SERVICES LTD. Appellant

Vs

C.C.E. JAIPUR I Respondent

I am directed to transmit herewith a certified copy of **Final order No 654 /2008 –SM[BR]**. dated 20.2.2008 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. JAIPUR I

N.C.R.BUILDING, STATUE CIRCLE, "C" SCHEME, JAIPUR 302005.

2. Adv. / Consult SHRI BIPIN GARG ADV.
B -1/1289 –A, VASANT KUNJ NEW DELHI -110070

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 Delhi -
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 60017
13. Taxindiaonline.com Pvt.Ltd, B-XI/8183,Vasant Kunj, New Delhi - 110070
14. Office Copy
15. Guard file

Assistant Registrar
(SM Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
COURT NO.II

E/Appeal No.2955 /2005-SM

(Arising out of order in appeal No.170/MPM/CE/JPR.I/05 dated 15.6.05 passed by the Commissioner of Central Excise (Appeals), Jaipur)

For approval and signature:

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

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?

No.

M/s Special Engg Services Ltd — Appellant
(Rep. by Shri Bipin Garg, Advocate)

Vs

CCE, Jaipur — Respondent
(Rep. by Shri Rajmal, DR)

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

Date of Hearing: 20 .2.2008

Final Order No. 654 /2008-SM(BR)

Per P.K. Das:

Heard both sides and perused the records.

2. The issue involved in this case is as to whether the Appellants can avail Modvat/Cenvat credit facility in respect of inputs and capital goods on the clearance of waste and scrap or by-product generated during the course of manufacture of job work material namely Bearing Races /Components cleared without payment of duty in terms of Notification No. 214/86-CE dated 1.3.1986.

3. It is seen that the Division Bench of the Tribunal in the case of CCE Vs. Allwyn Auto Ltd reported in 2004 (178) ELT 693 (Tri-Bang.) has held that the assesses are entitled to take credit of the duty paid on inputs used in the manufacture of aluminium scrap even if the same is generated as a by-product or waste product during the manufacture of another excisable commodity though the latter is either subject to nil rate of duty or wholly exempt from duty. The Larger Bench of the Tribunal in the case of Sterlite Industries Ltd Vs CCE Pune reported in 2005 (183) ELT 353 (Tri-LB) held that modvat credit of duty paid on inputs used in the manufacture of final product cleared without payment of duty for further utilization in the manufacture of final product, which are cleared on payment of duty by principal manufacturer, not hit by provisions of Rule 57-C of the erstwhile Central Excise Rules, 1944. In the present case, the appellants cleared the Bearing Races without payment of duty under Notification No. 214/86-CE dated 1.3.86 to the principal manufacturer who cleared the goods on payment of duty. Thus there is no dispute that the waste and scrap generated

-during the manufacture of Bearing Races which is an excisable goods and there is no reason to deny the credit utilized on the clearance of waste and scrap generated during the manufacture by the job work material. Hence, the impugned order is set aside and the appeal is allowed.

(Order dictated and pronounced in the open Court).

(P.K. Das)
Member(Judicial)

MPS*