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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/1550/2006-SM[BR] Date 28/04/2008

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

To :
M/S GWALIOR POLYPIPE LTD.
SANGU ESTATE A-170/171,INDRAPRASTHA INDL
AREA ROAD,NO-6,KOTA RAJ
M/S GWALIOR POLYPIPE LTD. Appellant

Vs
CCE,JAIPUR Respondent

I am directed to transmit herewith a certified copy of **Final order** No. 657 /2008 –SM[BR] dated 10.3.2008

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

Assistant Registrar
(SM Appeal Branch)

Copy to :
1. Respondent
CCE,JAIPUR

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 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)

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, R.K. PURAM, W.B. NO.2, PRINCIPAL BENCH NEW DELHI, COURT NO. III

Excise Appeal No.1550/06-SM (BR)

[Arising out of Order-in-Appeal No.39(MPM)CE/JPR-I/2006 dated 27.1.2006 passed by the Commissioner (Appeals), Central Excise, Jaipur (Rajasthan)]

Date of Hearing/ Decision: 10.3.2008

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.	:	NC
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?	:	

M/s. Gwalior Polypipe Ltd.

Appellants
[Rep. by Mr. Bipin Garg, Advocate]

Vs.

CCE, Jaipur

Respondent
[Rep. by Mr. S. L. Meena, Authorized Representative (DR)

CORAM: **Mr. P.K. Das, Member (Judicial)**

Final **ORDER NO. 657/08-SM(BR)/Dated:10.3.2008**

Per P.K. Das:

Heard both sides and perused the records.

2. The appellant filed this appeal against denial of credit of Rs.34,521/-. The appellant availed the credit on duty paid returned goods under Rule 16 of the Central Excise Rules, 2002. Commissioner (Appeals) observed that the appellant produced only transport bills and challans of exporters and, therefore, the adjudicating authority was unable to correlate the documents with the goods in question. Ld. Counsel on behalf of the appellants drew the attention of the Bench to the certificate issued by the supplier indicating the invoice nos. and other information. He also drew the attention of the Bench to the letter dated 17.12.2004 of the appellants along with statement addressed to the Superintendent of Central Excise.

3. Ld. DR on behalf of the Revenue submits that the appellant failed to produce any evidence that the duty had been paid at the time of removal.

4. On perusal of the Rule 16 of the Central Excise Rules, 2002, it is seen that the goods on which duty had been paid at the time of removal are brought to any factory for being remade, refined, re-conditioned or for any other reason, the assessee shall state the particulars of such receipt in record and shall be entitled to take Cenvat Credit of the duty paid, as such goods are

received as inputs under Cenvat Credit Rules, 2002. It is seen from the impugned order that the appellant produced the particulars of the receipt of these goods. They are required to produce the evidence that the duty had been paid on the said goods at the time of removal. It is seen from the record that the appellant in their correspondence referred the details of duty paid invoices, which are required to be verified by the lower authorities. Accordingly, the impugned order is set aside and the matter is remanded back to the adjudicating authority to examine the particulars of payment of duty of the returned goods. Needless to say that the adjudicating authority shall give proper opportunity of hearing before decision. The appeal is allowed by way of remand.

Order dictated & pronounced in open court on 10.3.2008.

(P.K. Das)
Member (Judicial)

Ckp.