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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/3839/2006-SM[BR] WITH CROSS /31 /2007 Date 13/05/2008

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

To :
C.C.E. RAIPUR
CENTRAL EXCISE BUILDING, DHAMTARI ROAD,
TIKRAPARA, RAIPUR 492001.

C.C.E. RAIPUR Appellant
Vs
M/S STEEL AUTHORITY OF INDIA LTD Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 756 /2008 –SM[BR] 5.5.2008

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

Assistant Registrar
(SM Appeal Branch)

Copy to :
1. Respondent
   M/S STEEL AUTHORITY OF INDIA LTD
   BHILAI STEEL PLANT, ROOM NO 118, ISPAT BHAWAN, BHILAI, DURG.
2. Adv. / Consult
   MR.RAVI RAGHWAN
   B-6/10 SAFDARJUNG ENCLAVE, NEW DELHI 110029
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 & SERVICE TAX
APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, NEW DELHI
COURT NO. II

Excise Appeal No. 3839 of 2006-SM(BR) with Cross/31/07

(Arising out of Order-in-Appeal No. 42/RPR-II/2006 dated 25.4.06 passed by the Commissioner (Appeals), Customs & Central Excise, Raipur)

For approval and signature

HON'BLE MR. S.S. KANG, 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?	
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 Departmental authorities.	

CCE, Raipur — Appellant

Vs.

M/s Steel Authority of India Ltd. — Respondent

Appearance:
Shri B.S. Suhag, DR - For appellant
Ms. Purnima Lakshmi Narayan, Adv. - For respondent

CORAM:
HON'BLE MR. S.S. KANG, VICE PRESIDENT

Date of Hearing: 5.5.2008

Final Order No. 756/08-SM(BR) dated 5.5.08

Per S.S. Kang:

Heard both sides.

2. The Revenue filed this appeal against the impugned order. The Commissioner (Appeals) in the impugned order held that

the amount of 8% of the sale price collected from the customer has already been deposited with the Revenue. The Revenue challenged that order after relying upon the decision of the Tribunal in the case of **P.T. Steel Industries Vs. CCE** reported in 2004 (177) ELT 1117.

3. The respondent submitted that the decision of the Tribunal in the case of **P.T. Steel Industries** (supra) has already been overruled by the Larger Bench of the Tribunal in the case of **Unison Metals Ltd. Vs. CCE** reported in 2006 (204) ELT 323.

4. In this case, the respondents were clearing the excisable goods as well as exempted goods and were availing the benefit of Cenvat credit in respect of the common inputs. The respondents were clearing exempted goods by paying 8% of price of the goods in the invoices. The respondents were recovering the amount from their customers. As the 8%

recovered from the customers has already been deposited with the Revenue and there is no evidence that respondents were recovering any other amount as excise duty over and above as mentioned in the invoices, therefore, the demand is not sustainable. The Larger Bench decision of the Tribunal in the case of **Unison Metal** (supra) overruled the view taken by the Tribunal in the case of **P.T. Steel Industries** (supra) which is the ground for filing the appeal. The appeal is dismissed. Cross objection 55/4? also disposed of in same terms

(Dictated & pronounced in open Court)

(S.S. KANG)
VICE PRESIDENT

RM