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CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
EXCISE APPEAL BRANCH

Appeal No. E/5575/2004 - EX[DB] Date 02/02/2009

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

To :
M/S SYNDICATE TYRES (PROP.)OM CYCLE INDUSTRIES (P)
ACCHRONDA, PARTAPUR,MEERUT

M/S SYNDICATE TYRES (PROP.)OM CYCLE INDUSTRIES (P) Appellant

Vs

C.C.E. MEERUT-I (U.P) Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 68/2009 - **EX[DB]** dated 28-1-09 passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(Excise Appeal Branch)

Copy to :
1. Respondent
   C.C.E. MEERUT-I (U.P)
   MANGAL PANDAY NAGAR MEERUT (U.P)
   250005
2. Adv. / Consult SH.ATULGUPTA,
   B-1289-A,VASANT KUNJ,
   N.DELHI-70

3 C.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.76(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-15
15 Office Copy
16 Guard file

Assistant Registrar
(Excise Appeal Branch)

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI PRINCIPAL BENCH, COURT NO. III

Excise Appeal No. 5575 of 2004

[Arising out of Order-in-Appeal No. 498-CE/MRT-I / 2004 dated 13.8.04 passed by Commissioner (Appeals), Customs & Central Excise, Meerut I]

For approval and signature:

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

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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? : Y-N

M/s. Syndicate Tyre Appellant

Vs.

Commissioner of Central Excise Meerut I Respondent

Appearance:

Mr. Atul Gupta, Company Secretary for the Appellant
Mr. S.N. Srivastava, DR for the Respondent

CORAM:

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

Date of Hearing /Decision: 28.1.2009

FINAL **ORDER NO. 68/09-EX**

Per P.K.Das (for the Bench):

The appellant filed this appeal against the order-in-appeal No. 498-CE/MRT-I / 2004 dated 13.8.04 passed by the Commissioner (Appeals), Meerut.

2. Heard both sides and perused the records.

3. The relevant facts of the case, in brief, are that the appellants are engaged in the manufacture of tyres of cycles and cycle-rickshaws classifiable under heading No. 40.11 of the Schedule to the Central Excise Tariff Act, 1985. It has been alleged that during the process of manufacturing of tyres of cycles and cycle-rickshaws, there is a new product compounded rubber came into existence. Show cause notice was issued proposing the demand of duty on compounded rubber under heading 40.05 of the CETA during the period 1.3.1994 to 16.3.1994. The appellants contested the demand of duty on the ground of excisability as well as valuation of the goods. The adjudicating authority confirmed the demand of duty of Rs.2,19,319.36. Commissioner (Appeals) modified the demand of duty to Rs.95,071.00 after taking into account the submission of the appellant on valuation of goods. The main contention of the learned counsel is that the appellant resisted the demand of duty on the ground of non-excisability as it is not marketable. We find that there is no finding of the Commissioner (Appeals) on this aspect. In view of that, we direct the Commissioner (Appeals) to examine the excisability of the goods as

contended by the appellant. Needless to say that the Commissioner (Appeals) shall provide proper opportunity of hearing to the appellant before decision.

4. The appeal is allowed by way of remand.

(Dictated & Pronounced in the open Court)

(M. Veeraiyan)
Member(Technical)

(P.K.Das)
Member(Judicial)

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