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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/1407/2007 - SM Date 16/01/2009

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

To :
M/S INDO LAHIRI BIO POWER LTD.
(MELTING DIVISION), JARAUNDA, RAIPUR (C.G.)

M/S INDO LAHIRI BIO POWER LTD. Appellant

Vs

C.C.E. RAIPUR Respondent

I am directed to transmit herewith a certified copy of **Final order** No. 71 / 2009 - **SM[BR]** dated 9.1.2009 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. RAIPUR
CENTRAL EXCISE BUILDING, DHAMTARI ROAD, TIKRAPARA, RAIPUR 492001.
2. Adv. / Consult
MR.SUSHIL KUMAR,CA
2/1, 2ND FLOOR, APPRAJITA COMPLEX, AKASHGANGA, SUPELA, BHILAI(CG)

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 - 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). 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-1
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Assistant Registrar
(SM Appeal Branch)

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.
Principal Bench, New Delhi

COURT NO. IV
Excise Appeal No. 1407 of 2007 (SM)

[Arising out of the Order-in-Appeal No. 14 (ST)/RPR-I/2007 dated 12/03/2007 passed by The Commissioner (Appeals – I), Central Excise and Customs, Raipur.]

For Approval and signature :
Hon'ble Shri Rakesh Kumar, Member (Technical)

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 Department Authorities?	:

M/s Indo Lahiri Bio Power Ltd. Appellant

Versus

CCE, Raipur Respondent

Appearance

Shri V.S. Mishra, Advocate – for the appellant.

Shri S. Gautam, Authorized Representative (DR) – for the Respondent.

CORAM : **Hon'ble Shri Rakesh Kumar, Member (Technical)**

DATE OF HEARING : 09/01/2009.

Final Order No. 71/09-SM(PR) Dated : 9-1-09

Per. Rakesh Kumar :-

The issue involved in this case is, as to whether during period prior to 15/6/04 Cenvat credit of Service Tax on GTA service received by a manufacturer could be taken on the strength of TR-6 challans.

1.1 Shri V.S. Mishra, Advocate, the learned Counsel for the Appellant pleaded that the issue involved in this case already stand decided in their favour by this Tribunal in the cases of **Gaurav Krishna Ispat (I) Pvt. Ltd. vs. CCE, Raipur** [Tribunal's order No. ST/325/08 dated 17/10/2008], wherein the Tribunal relying upon its earlier judgments in the case of **CCE Vs. Crompton Greaves Ltd.** reported in **2008 (226) E.L.T. 117** and in the case of **CCE vs. Essel Pro-Pack Ltd.** reported in **2007 (8) S.T.R. 609** held that even during period prior to 15/6/05 the Cenvat credit of Service Tax credit on GTA service received by manufacturer could be taken on the strength of TR-6 challans.

1.2 The learned Departmental Representative, however, pleaded that the specific provision making TR-6 challan as a valid document for taking Cenvat credit was introduced in the Cenvat Credit Rules only by Notification No. 28/2005-CE and, therefore, prior to 16/6/05 TR-6 challan was not a valid document for taking Cenvat credit.

2. I have carefully considered the submissions from both the sides. Since, the issue stands decided in the Appellant's favour by the above-mentioned judgments of this Tribunal, the impugned order is not sustainable and the same is set aside. The appeal is allowed.

(Dictated and pronounced in open court)

(Rakesh Kumar)
Member (Technical)

PK