

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/1296/2007 – SM[BR]

Date 09/02/2009

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

To :
M/S NATIONAL ENGG. IND. LTD.
H.O AT KHATIPURA ROAD, JAIPUR (RAJASTHAN)
M/S NATIONAL ENGG. IND. LTD.

C.C.E. JAIPUR I

Appellant
Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No. 132 / 2009 – SM[BR] dated 3.2.2009
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. 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 -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 Publications (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

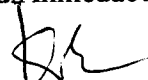
12 Commercial Laws of India Pvt Ltd Post Bag No. 1033, No.70(Old No. 88), Thvagaraya Road, T. Nagar, Chennai

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

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI**

PRINCIPAL BENCH – COURT NO. 1

Excise Appeal No. 1296 of 2007

(Arising out of Order-in-Appeal No. 38/GRM/CE/JPR-I/2007 dated 14.02.2007
passed by the Commissioner of Customs & Central Excise (Appeals-I), Jaipur-I).

DATE OF HEARING : 03.02.2009

DATE OF DECISION : 03.02.2009

FOR APPROVAL AND SIGNATURE :

HON'BLE MS. JYOTI BALASUNDARAM, 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 ?.	No
2.	Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not ?	No
3.	Whether their Lordships wish to see the fair copy of the Order ?	Seen
4.	Whether Order is to be circulated to the Departmental Authorities?	yes

M/s National Engg. Ind. Ltd.

... **Appellant**
(Rep by Sh. Atul Gupta, CA)

versus

CCE, Jaipur-I

... **Respondent**
(Rep. by Sh. S. Gautam, DR)

**CORAM : HON'BLE MS. JYOTI BALASUNDARAM, VICE-
PRESIDENT**

Final **ORDER NO. 132/09-sm (BR)**

PER JYOTI BALASUNDARAM :

Cenvat Credit of Rs. 47,676/- has been disallowed to the appellants, who are manufacturers of taper/roller/cartridge bearings, on the ground that they had availed it for the period prior to 09.07.2004 and utilized it for payment of duty, whereas in terms of Rule 3 of the Cenvat Credit Rules, 2004, Cenvat Credit on education cess on excisable goods was permitted to be taken only w.e.f. 09.07.2004, interest has also been levied and penalty imposed.

2. I have heard both sides. Cenvat Credit in respect of education cess was availed in respect of deferment of payment of duty for the period 01.02.2003 to 17.01.2005. The excess payment of duty was made in January, 2005 and credit was taken in February, 2005 i.e subsequent to 09.04.2004 by which date Cenvat Credit on education cess on excisable goods was admissible and, therefore, cannot be denied to the appellants. Accordingly, I set aside the impugned order and allow the appeal.

(Dictated and pronounced in the open Court on the 3rd day of February, 2009)

(JYOTI BALASUNDARAM)
VICE-PRESIDENT

Golay