

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/2030 - 2031 / 2008 -SM[BR] E/ STAY/ 1984 - 1985 / 2008

Date 12/02/2009

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

To :
1. M/S AGARWAL PRODUCTS.,
15, BAL NAGAR-B, GONER ROAD, JAIPUR.
M/S AGARWAL PRODUCTS.,
C.C.E. JAIPUR I

[2] M/S SHRAM METALS
1 A, OLD INDUSTRIAL AREA DELHI ROAD
ALWAR [RALASTHAN]

Appellant

Vs
Respondent

am directed to transmit herewith a certified copy of Final order No. 162 -163 /2009 -SM[BR]& S/ 42 -43 /2009 dated 19.1.2009
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. JAIPUR I

N.C.R.BUILDING, STATUE CIRCLE, "C" SCHEME, JAIPUR 302005.

2. Adv. / Consult

MR.ALOK KOTHARI

A-92, MANISH MARG, NEMI NAGAR, GANDHI PATH, VAISHALI NAGAR, JAIPUR

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

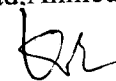
12 Commercial Laws of India Pvt Ltd Post Bag No. 1033, No.70(Old No. 88), Thyagarava Road, T. Nagar, Chennai

13 Taxindiaonline.com Pvt.Ltd, B-XI/8183, Vasant Kuni, New Delhi - 110070

14 Easy Service Tax Online Dot Com Pvt.Ltd.407A, Iscon Mall, Above Star India Bazar, Satellite Road, Ahmedabad-1

15 Office Copy

16 Guard file


Assistant Registrar
(SM Appeal Branch)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI
BENCH – Service Tax

E/S/1984-85/08 in E/2030-31/08-SM

M/s. Agarwal Products & Others

Appellant
(Rep. by None)

vs

CCE, Jaipur-I

Respondent
(Rep. by Sh. R.K.Verma,DR)

Coram : Hon'ble Mr. Rakesh Kumar, Member Technical

Date of Hearing: 19.1.09

Final Order No. 162-163/09-sm(BR)
Stay order No. 42-43/09-sm(BR)

Per Rakesh Kumar:

The first Appellant M/s. Agarwal Products, Jaipur is a registered dealer who is alleged to have passed on Cenvat credit of Rs.13,483/- without supplying any material and M/s. Shram Metals, Alwar is a manufacturer who alleged to have been taken the credit on the basis of above mentioned invoice issued by a registered dealer M/s. Agarwal Products. The Asstt. Commissioner vide order-in-original dt.19.12.07 confirmed the Cenvat credit of Rs.13,483/- along with interest against M/s. Shram Metals and imposed penalty of equal amount on M/s. Shram Metals under Section 11AC and penalty of Rs.10,000/- on M/s. Agarwal Products under Rule 25 of Central Excise Rules,02. The appeals against this order passed by the Asstt. Commissioner was rejected vide impugned

order-in-appeal dt.3.6.08. The present appeals have been filed by M/s. Agarwal Products and Shram Metals.

2. None appeared for the Appellant. The Ld. Authorised Representative pointed out that amount involved in this case, since there is no issue relating to rate of duty valuation involved and the amount involved is less than Rs.50,000/-, in terms of the proviso to Section 35B(1), this appeal should not be admitted.

3. I have carefully considered the submissions of Ld. DR and have perused the records. This is a case relating to issue of invoice by a registered dealer without selling any goods and taking Cenvat credit of Rs.13,483/- on the basis of such invoice by the manufacturer, both of whom are the Appellants. Since the quantum of Cenvat credit involved is only Rs.13,483/- and there is no issue relating to rate of duty or valuation involved, I dismiss these appeals in terms of second proviso to Section 35B(1).

(Order dictated and pronounced in the open Court).

(Rakesh Kumar)
Member Technical

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