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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. C/796 /2008 – SM[BR] WITH C / STAY / 2593 / 2008 –SM[BR] Date 18/03/2009

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

To :
M/S KOTDWAR STEEL LTD
BLOCK-E, JASODHARPUR INDL AREA, KOTDWAR,
DISTT- PAURI GARHWAL(UTTARAKHAND)

M/S KOTDWAR STEEL LTD Appellant
Vs
C.C.(JODHPUR) Respondent

I am directed to transmit herewith a certified copy of **Final order No** 221 / 2009 –SM[BR]& S/ 69 /2009 dated 6.2.2009

passed by the Tribunal under Section 129, (B) of the Customs Act,1962 & Financial Act 1994 relating to Service Tax

Assistant Registrar
(SM Appeal Branch)

Copy to :
1. Respondent
   C.C.(JODHPUR)
   HQ AT NEW CENTRAL REVENUE BUILDING, STATUE CIRCLE, 'C' SCHEME, JAIPUR 302005.
2. Adv. / Consult
   MR.AALOK ARORA,ADV
   82-MISSION COMPOUND,SAHARANPUR (U.P.)
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
15. Office Copy
16. Guard file

Assistant Registrar
(SM Appeal Branch)

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, R.K. PURAM, W.B. NO.2, PRINCIPAL BENCH NEW DELHI, COURT NO.I

Customs Appeal No. 796 of 2008 – SM with Customs Stay No. 2593 of 2008

[Arising out of order-in-original No. 15/2008-Commr (Customs) dated 2.9.2008 passed by the Commissioner of Customs, Jodhpur]

Date of Hearing/Decision : 06.02.2009

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 Kotdwar Steel Limited — Appellant
[Rep. by Mr. Alok Arora, Advocate]

Versus

CC, Jodhpur — Respondent
[Rep. by Mr. R.K. Verma, DR]

CORAM: Hon'ble Ms. Jyoti Balasundaram, Vice-President

Stay order No. 69/09-SM (DR)
Final Order No. 221/09-SM(DR)

Per Jyoti Balasundaram:

For reasons recorded below, I waive the pre-deposit of duty of Rs. 1,39,690/- and penalty of Rs. 1,00,000/- confirmed and imposed upon the applicant herein and proceed to hear and decide the appeal itself at this stage.

2. The demand has been confirmed for the reason that the appellant could not produce end-use certificate as required under Notification No. 21/2002-Cus. dated 01.03.2002.

3. The appellant has produced a copy of end-use certificate dated 04.02.2009 certifying that as per monthly ER-1 return for the period September and October 2005 and as per copy of stock register submitted with the application, out of the imported quantity of 205.880 MT of Non Alloy Scrap, a quantity of 205.760 MT of non Alloy HMS Scrap was found received in their factory from 22.09.2005 to 01.10.2005 and found consumed in course of manufacture of MS Ingots in their induction furnace from 01.10.2005 to 11.10.2005.

4. Since the end-use certificate under the relevant notification is now available with the appellant, interest of justice require that they be given a chance to produce the same before the Commissioner to satisfy him about the admissibility of the benefit of the notification. I, therefore, set aside the impugned order and remit the case for fresh decision to the Commissioner of Customs who shall pass fresh order after extending reasonable opportunity to the appellant of being heard in their defence.

5. The appeal is thus allowed by way of remand.

[Dictated and pronounced in the open Court]

[Jyoti Balasundaram]
Vice President

[Pant]