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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/1637/2007 – SM[BR] Date 20/03/2009

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

To :
M/S GOODYER INDIA LTD

MANAGER (EXCISE)M/S GOODYEAR INDIA LTD
MATHURA RAOD, BALLABGARH, FARIDABAD.
M/S GOODYER INDIA LTD Appellant

Vs

C.C.E. DELHI IV Respondent

I am directed to transmit herewith a certified copy of **Final order No 223 / 2009 –SM[BR]**. dated 16.3.2009

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. DELHI IV

NEW CGO COMPLEX, NH-IV, FARIDABAD, HARYANA 121001.
2. Adv. / Consult
MR.R. KRISHNAN

297-E, POCKET-II, PHASE-I, DELHI-110 091.

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
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Assistant Registrar
(SM Appeal Branch)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

West Block No.2, R.K.Puram, New Delhi

COURT-II

Date of hearing/decision: 27.02.2009

Excise Appeal No. 1637 of 2007 - SM

M/s Goodyear India Limited ...Appellant
[Rep. by Mr. R. Krishnan, Advocate]

Vs.

CCE, Faridabad Respondent
[Rep. by Mr. M.M. Singh, DR]

Coram: Hon'ble Mr. D.N. Panda, Judicial Member

Final Order No. 223/09-SM(BR)

Per D.N. Panda

Learned DR makes a preliminary objection that the appellant has come against a letter dated 19.3.2007 to seek remedy. According to him, in absence of an order and that too an appealable order, appeal does not lie to Tribunal.

2. Learned Counsel for the appellant submits that the letter dated 19.3.2007 is an appeable order in terms of decision of the Tribunal in the case of G.E. Apar Lighting (P) Ltd., vs. CCE, Ahmedabad reported in 1995 (77) ELT 399 (Tribunal).

3. To the above submission of the learned Counsel, learned DR submits that the Commissioner when disallowed the cenvat credit he has examined the entire issue, therefore, the appellant is not entitled to any relief.

4. Heard both sides and perused the record.

5. No doubt that while conveying the decision of the learned Commissioner in terms of letter dated 19.3.2007, that does not throw light as to where the appellant was given an opportunity of hearing and to argue its case before the learned Commissioner as to disallowance of cenvat credit. The Commissioner has taken a decision suo-motu debarring the appellant to avail an opportunity of defence. This ground alone is sufficient to send the matter back to the learned Commissioner who is required to examine the matter in the light of the Tribunal's decision in the case of Grasim Industries vs. CCE, Indore reported in 2007 (208) ELT 336 (Tri.-LB). The appellant is entitled to an opportunity of hearing and plead its defence when it appellant relies on the decision of Grasim Industries case (supra).

6. It is sufficient to state that an order passed without any reason and being speaking as well as violating natural justice, shall not get in sanction. Therefore, the letter dated 19.3.2007 is not sufficient enough to disallow cenvat credit to the appellant. Learned Commissioner should issue proper notice and deal the matter in accordance with law following due process of law and ratio laid down in the above decision cited by learned Counsel.

7. In the result, the matter is remanded to the learned Commissioner to examine the issue afresh, following due process of law as indicated in the manner aforesaid.

(Dictated and pronounced in the open Court).

[D.N. Panda]
Judicial Member

[Pant]