

**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/1147/2007 – SM[BR]

Date 26/03/2009

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

To :  
M/S L.M. STEELS PVT. LTD.

B-11, B.S.ROAD, INDL. AREA, GHAZIABAD.

M/S L.M. STEELS PVT. LTD.

C.C.E. GHAZIABAD

Appellant

Vs  
Respondent

I am directed to transmit herewith a certified copy of **Final order No. 260 / 2009-SM[BR]** dated 20.3.2009  
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. GHAZIABAD

C.G. O. COMPLEX-II, KAMLA NEHRU NAGAR, GHAZIABAD 201302

2. Adv. / Consult

MR.RAJESH CHHIBBER

FA/9, NEW KAVI NAGAR, GHAZIABAD

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

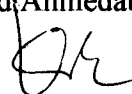
12 Commercial Laws of India Pvt Ltd Post Bag No. 1033, No.70(Old No. 88), Thyagarava Road, T. Nagar, Chennai

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  
PRINCIPAL BENCH, NEW DELHI  
COURT NO.II

E/Appeal No.1147/2007-SM(Br)

(Arising out of order in appeal No.14/cE/Gzb/07 dated 21.2.2007  
passed by the Commissioner of Central Excise (Appeals),  
Ghaziabad)

M/s L.M. Steels Pvt Ltd

Appellant

Vs

CCE, Ghaziabad

Respondent

Appeared for Appellant : Shri Rajesh Chhibber, Advocate  
Appeared for Respondent : Shri Sansar Chand, DR

Date of Hearing: 17.3.09

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

Final Order No. 260 /2009 - SM(BR)

Per D.N. Panda:

Learned Counsel Shri Rajesh Chhibber submits that the appellant is entitled to Cenvat credit on capital goods. The appellant has entire set of documents to prove that the capital goods involving duty of Rs.2,42,523/- were very well received in the factory of the appellant and that has served useful purpose. The appellant has disclosed the fact of acquisition of the Asset under Income tax law. But the authorities under Excise law have demolished right of the appellant for no rhyme or reason. Entire set of documents are available with the appellant to prove the genuineness of the transaction and the appellant shall establish

the very use of capital goods itself. He submits that the procedural aspect of recording in RG 23-C Part I may not be a decisive factor when other substantive conditions are fulfilled. He therefore, prays that if the matter goes back to the learned Adjudicating Authority, the appellant shall be able to submit full proof of receipt of capital goods, ownership, acquisition as well as use of such goods. An opportunity may therefore, be granted without denying the appellant to the legitimate claim.

2. Learned DR appearing for Revenue supports the order passed by the Commissioner (Appeals).

3. Heard both the sides and perused the record.

4. The appellant's grievance being to grant an opportunity to defend before the learned Adjudicating Authority in view of the averments aforesaid for which, it would be proper to remand back the matter to the learned adjudicating authority to grant fair opportunity of hearing to the appellant to prove its stand. A speaking and reasoned order may be passed by that authority to resolve the dispute.

5. In the result, the matter is remanded to the learned adjudicating authority.

(Order dictated and pronounced in the open Court).

(D.N. Panda)  
Judicial Member

MPS\*