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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/843 - 844 / 2007 -SM[BR] Date 31/03/2009

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

To :
C.C.E, DELHI-IV
NEW CGO COMPLEX, N.H-IV, FARIDBAD, HARYANA
121001
C.C.E, DELHI-IV Appellant

Vs

BLUE FORGINGS PVT. LTD. Respondent

I am directed to transmit herewith a certified copy of **Final order No**. 279 – 280 / 2009 –SM[BR] dated 27.3.2009

passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(SM Appeal Branch)

Copy to :
1. Respondent
(1-2) BLUE FORGINGS PVT. LTD.
24TH MILE STONE, MATHURA ROAD, BALLABGARH.
2. Adv. / Consult SHRI D.K. TYAGI ADV.
C- 605, CHAULA COLANY
BALLABGARH

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
PRINCIPAL BENCH, NEW DELHI
COURT NO.II

E/Appeal No.843-844 /2006 -SM(Br)

(Arising out of order in appeal No.102-103/CE/Appeal/DLH-IV/06 dated 15.12.06 passed by the Commissioner of Central Excise (Appeals), Delhi)

CCE, Delhi-IV — Appellant

Vs

M/s Blue Forgings (P) Ltd — Respondent

Appeared for Appellant : Shri R.K. Verma, DR
Appeared for Respondent : Shri D.K. Tyagi, Advocate

Date of Hearing: 19.3.09

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

Final Order No. 279 - 280 /2009 -SM(BR)

Per D.N. Panda:

Being aggrieved by the order passed by the learned Commissioner (Appeals) on 15.12.2006, Revenue has come in appeal before this forum. Learned Commissioner has held that the appellant before him was not required to reverse the Cenvat credit relating to input used in the manufacture of exempted goods (i.e. goods manufactured on job work basis during the material period).

2. The learned DR brings out the factual position that for the furnace oil which is claimed to have been commonly used for manufacture of dutiable goods and exempted goods manufactured on job work basis, the respondent should be denied that portion of the Cenvat credit which is involved in job worked goods. Therefore, the order of adjudication was rightly passed. Learned DR relied on the judgment of CCE Mumbai Vs Raymond Ltd reported in 2004 (177) ELT 691 to support his submission.

3. Preliminarily, learned Counsel appearing on behalf of the respondents submits that the material period involved being a period prior to amendment of respective rule and such a situation was dealt with by the Hon'ble High Court of Punjab & Haryana in the case of CCE Delhi-IV Vs. Super Auto (I) Ltd reported in 2008 (221) ELT 41, the respondent was entitled to appropriate relief.

4. Heard both the sides and perused the record. It appears that there is no dispute that the matter relates to that material period which is also subject matter of judgment in Super Auto case decided by Hon'ble Punjab & Haryana High Court on 16.10.2007. The question before Hon'ble High Court was "whether credit of duty is admissible to the inputs in the present case in terms of erstwhile Rule 57C and 57CC of Central Excise Rules, 1944 used in both dutiable as well as exempted goods when no separate account bas been maintained nor 8% duty reversed in respect of clearance of exempted goods." The question referred to the Hon'ble High Court was answered against the Revenue. In view of settled position of law, there is no reason to interfere with the

order passed by the learned Commissioner (Appeals). Consequently, the Revenue's appeals fail and dismissed.

(Order dictated and pronounced in the open Court).

(D.N. Panda)
Judicial Member

MPS*