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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/3714/2003 – SM[BR] Date 08/05/2009

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

To :
M/S U.P.STATE SPINNING CO. LTD.
7-A, ASHOK MARG, LUCKNOW.

M/S U.P.STATE SPINNING CO. LTD. Appellant
Vs
C.C.E. LUCKNOW Respondent

I am directed to transmit herewith a certified copy of **Final order No**. 360 / 2009 –SM[BR] dated 23.4.2009 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. LUCKNOW
   7-A, ASHOK MARG, LUCKNOW.
2. Adv. / Consult
   NONE;-------------

3 S.D.R
~~4 J.C.D.R~~.
5 Bar association, CESTAT, New Delhi
6 Director Publications, Customs, Excise. I.P. Estate, New Delhi
7 M/s Centax Publictions Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi - 3
8 Commercial Laws of India Pvt Ltd. Post Bag No. 1033, No.2(Old No. 36), Vaithyaram Street, T. Nagar,Chennai -17
9 Raghuraman's 44-B, Regal Flat,Shipra Suncity, Indirapuram - 201010,Ghaziabad, DT, U.P.
10 M/s Manupatra Information Solutions Pvt Ltd. Excise & Customs Cases B-37, Sector - 1, Noida - 201301, Gautam Budh Nagar, (UP)
11 M/s. Deeparchie Publications, M-93, Marg, 46, Saket, New Delhi 110017
12 Taxindiaonline.com Pvt.Ltd, B-XI/8183,Vasant Kunj, New Delhi - 110070
13 Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh, New Delhi - 110026
14 Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road,Ahmedabad-15
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Assistant Registrar
(SM Appeal Branch)

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No.2, R.K.Puram, New Delhi-110066.
Principal Bench, New Delhi.

E/3714/03-SM

[Arising out of Order-in-Appeal No.39-CE/LKO/03 dt.8.7.03 passed by the Commissioner(Appeals), Lucknow)

For approval and signature:

Hon'ble Mr. RAKESH KUMAR, MEMBER (TECHNICAL)

1. Whether Press Reporters may be allowed to see: the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?
2. Whether it would be released under Rule 27 of : the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?
3. Whether their Lordships wish to see the fair : copy of the order?
4. Whether order is to be circulated to the : Department Authorities:

M/s. U.P.State Spinning Co. Ltd. Appellant

Versus

CCE, Lucknow Respondent

Appearance

None For Appellant
Shri Sunil Kumar for Respondent

Coram: Hon'ble Mr. RAKESH KUMAR, MEMBER (TECHNICAL)

Date of decision: 23.4.09
Final Order No. 360/09-SM(BR)

Per Rakesh Kumar:

This is an appeal against impugned order-in-appeal No.39-CE/LKO/03 dt.8.7.03 passed by Commissioner(Appeals) by which Modvat credit demand of Rs.9384/- was upheld. The Appellant vide letter dt.4.7.08 has requested for hearing of this matter on merit.

2. Heard Ld. DR. He pleaded that the credit of Rs.9384/- disallowed by the Department pertains to the duty on yarn which has been cleared by the Appellant under their own invoices to job worker for dyeing and dyed yarn had been returned from job workers and had been used by the Appellant in packing section for tying of the yarn. In the invoices, the consignee had been mentioned as "U.P. State Spg. Co. Ltd., Store Deptt." He pleaded that since the invoices on the basis of which this credit was taken, had been issued by the Appellant to themselves, the same are not valid documents for Cenvat credit as per the provisions of sub-rule (2) of Rule 57G.

3. I have carefully considered the submissions of Ld. DR and perused the records. The only ground on the basis of which credit has been denied, is that the same has been taken on the basis of invoices issued to self and as per sub-rule 3 of Rule 57G such invoices are not valid document for taking Modvat credit. As per 57G(2), any invoice issued by the manufacturer under Central Excise Rules,1944 is a valid duty paying document and there is nothing in this, sub-rule from which it can be inferred that the invoices issued by a manufacturer to self, under which

the goods are cleared for captive consumption for further manufacturing process or for packing of the finished goods, are not valid documents for taking Modvat credit. In view of this, the impugned order denying the Modvat credit amounting to Rs.9384/- is not sustainable. The same is set aside and the appeal is allowed.

Order dictated in the open Court.

(Ràkesh Kumar)
Member Technical

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