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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/1432/2007 – SM[BR] Date 20/05/2009

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

To :
M/S SAURABH METALS (P) LTD
45, ANCILLARY INDUSTRIAL AREA, HABIBGANJ,
BHOPAL.
462024

M/S SAURABH METALS (P) LTD Appellant

Vs

C.C.E BHOPAL Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 424 / 2009 –SM[BR] dated 30.4.2009

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 BHOPAL
HOSHANGABAD ROAD, 48, ADMINISTRATIVE AREA, AREA HILLS, BHOPAL (M.P.) 462011
2. Adv. / Consult SHRI S.K.AGARWAL CON.
92, SHRI KESHAV SADAN SANTI NAGAR
NAISARAK GWALIOR
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
15 LAWCRUX Advisors Pvt Ltd. LAW House.1-8.Sector - 10. Faridabad 121003 (Haryana)
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17 Guard file

Assistant Registrar
(SM Appeal Branch)

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI, PRINCIPAL BENCH NEW DELHI

Appeal No.1432 of 2007-SM (BR)

Arising out of Order-in-Appeal No.255-CE/APPL/Bhopal/2086 dated 17.01.2007 passed by the Commissioner of Central Excise (Appeals), Bhopal]

Date of Hearing/ Decision:30.04.2009

For approval and signature:

Hon'ble Mr. P.K. Das, Member (Judicial)

1. Whether Press Reporters may be allowed to see CESTAT (Procedure) Rules, 1982.
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? :
4. Whether Order is to be circulated to the Departmental authorities? : Yes

M/s. Saurabh Metals (P) Ltd. ....Appellants

[Rep. by Shri S.K. Agarwal, Consultant]

Vs.

CCE, Bhopal .Respondent

[Rep. by Shri S.K. Bhaskar, DR]

CORAM: **Hon'ble Mr. P.K. Das, Member (Judicial)**

Final Order No.424/09-SM (BR)/Dated:30.04.2009

Per P.K. Das:

Heard both sides and perused the records.

2. In this case, the Modvat credit was denied of Rs.1,57,553.55 for the reason of non-filing of proper declaration under Rule 57G of

erstwhile Central Excise Rules, 1944 during the period 19.06.91 to 3.7.91. The appellants filed declaration under Rule 57G of erstwhile Central Excise Rules for the inputs M.S. Scrap classifiable under sub-heading No.72.04 of the Schedule to the Central Excise Tariff Act. It has been alleged that the appellants availed credit on ship breaking scrap covered under sub-heading 72.30 and 73.27 of the CETA 1985.

3. Ld. Consultant drew the attention of the Bench to the relevant gate passes. It appears from the central excise gate passes that the appellant received Iron Steel Scrap from old ships. There is no dispute that the appellants declared in the Modvat declaration of the Iron and Steel Scrap and the inputs received by them is also Iron Steel Scrap.

4. It appears that in the year 1999 Rule 57G was amended and sub-rule 11 was inserted. Rule 57G (11) provides that credit cannot be denied on the ground of non-filing of proper declaration subject to the satisfaction that the assessee received the goods upon proper duty paying documents and utilised the same in the manufacture of the finished goods and duly recorded in records. In the present case, the appellants filed declaration of the inputs in broad description. There is no dispute that the appellants received the goods under the cover of proper duty paying central excise gate pass and duly recorded in the statutory records and also utilised in the manufacture of finished goods. Therefore, there is no reason to deny the credit.

5. In view of that, I set aside the impugned order. The appeal is allowed with consequential relief,

Order dictated & pronounced in open court on 30.04.2009.

(P.K. Das)
Member (Technical)

Ckp.