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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/316 /2007 – SM[BR] Date 04/06/2009

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

To :
M/S TRIVENI ENGG& INDUSTRIES LTD
KHATAULI.DISTT-MUZAFFARNAGAR.

M/S TRIVENI ENGG& INDUSTRIES LTD Appellant
Vs
C.C.E.MEERUT Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 526 / 2009 –SM[BR] dated 25.5.2009 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.MEERUT
   MANGAL PANDEY NAGAR, MEERUT.
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 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)
16 Office Copy
17 Guard file

Assistant Registrar
(SM Appeal Branch)

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

Excise Appeal No.316 of 2007-SM

[Arising out of Order-in-Appeal No.274-CE/MRT-I/2006 dated 11.12.2006 passed by the Commissioner of Central Excise (Appeals), Meerut-I]

Date of Hearing/ Decision:25.05.2009

For approval and signature:

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

3. 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? :
3. Whether Their Lordships wish to see the fair copy of the Order? :
4. Whether Order is to be circulated to the Departmental authorities? :

N

7N

M/s. Triveni Engg. & Industries Ltd. ...Appellant
[Rep. by Shri Rajesh Chhiber, Advocate]

Vs.

CCE, Meerut ...Respondent
[Rep. by Shri M.M. Singh, DR]

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

Final Order No. 526/09-SM(BR) /Dated:25.05.2009

Per P.K. Das:

The appellants filed this appeal against the denial of credit on Welding Electrodes and Delta therms, electrical goods, Loctite & Fire Crete, Shrink Komp, Gauge Pressure, Transmitter & Magnetic Flow Meter, etc.

2. After hearing both the sides and on perusal of the records, it is seen that the Original Authority had not examined the use of these items except Welding Electrodes.

3. Ld. Advocate fairly submits that the Commissioner (Appeals) examined the use of the items without considering their submissions. He further submits that the Hon'ble Rajasthan High Court in the case of Hindustan Zinc Ltd. reported in 2008 (228) ELT 517 (Raj.) held that the Welding Electrode used for repair and maintenance of Plant and Machinery is eligible for credit.

4. I agree with the submissions of the ld. Advocate that the Original Authority is required to examine the use of the items as per the submissions of the appellants.

5. In view of that, denial of credit on the above items is set aside. The matter is remanded back to the Original Authority to decide afresh after examining the use of these items. The appellants are also directed to make the submissions in detail before the Original Authority for the use of these items. As the issue involved in the present case is interpretation of the provisions of the Law and eligibility of the credit, therefore, penalty is not warranted. Accordingly, the denial of credit on these items is set aside and the penalty is also set aside. The appeal is disposed of in the above terms.

Order dictated & pronounced in open Court on 25.05.2009.

(P.K. Das)
Member (Judicial)

Ckp.