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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/675 /2007 – SM[BR] Date 04/06/2009

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

To :
C.C.E, CHANDIGARH
PLOT NO. 19, SECTOR 17-C, CHANDIGARH

C.C.E, CHANDIGARH Appellant
Vs
SABOO TOR (P) LTD. Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 527 / 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
SABOO TOR (P) LTD.
TRILOKPUR ROAD, KALA AMB, DISTT. SIRMOUR (H.P.)
2. Adv. / Consult SHRI AJAY JAIN ADV.
1293, SECTOR -18, -C,
CHANDIGARH

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.675 of 2007-SM

[Arising out of Order-in-Appeal No.1020/CE/CHD/2006 dated 26.10.2006 passed by the Commissioner of Central Excise (Appeals), Chandigarh]

Date of Hearing/ Decision:25.05.09

For approval and signature:

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

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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? : 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

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CCE, Chandigarh ...Appellants

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

Vs.

M/s. Saboo Tor (P) Ltd. ...Respondent

[Rep. by Shri Ajay Jain, Advocate]

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

Final Order No. 527/09-SM(BR)/Dated:25.05.2009

Per P.K. Das:

Revenue filed this appeal against the Order-in-Appeal No.1020/CE/CHD/2006 dated 26.10.2006 passed by the Commissioner (Appeals).

2. After hearing both the sides and on perusal of the records, it is seen from the impugned order that the issue involved is as to whether the respondents are required to reverse the Cenvat credit taken on the inputs contained in the final product lying in stock on 11.04.2005 i.e. the date when their final product got exempted in terms of Notification No.50/2003-CE.

3. I find that the issue has already been decided by the Larger Bench of the Tribunal in the case of H.M.T. Vs. CCE, Panchkula reported in 2008 (232) ELT 217 (Tribunal-Larger Bench). The relevant portion of the said decision is reproduced below:-

> "22. In view of the above discussions, we hold that when the input-credit legally taken and utilised on the dutiable final products, need not be reversed on the final product becoming exempt subsequently w.e.f. 9.7.2004. The decision of the Bangalore Bench in the case of TAFE Ltd. (Tractor Division) Vs. CCE, Bangalore – 2007 (210) ELT 571 (Tribunal) = 2007 (79) RLT 706 (Tribunal-Bangalore) enunciated the correct position of the law. The issue is thus, answered in favour of the assessee and against the Revenue."

4. In views of the above decision of the Larger Bench of the Tribunal in the case of HMT (supra), I do not find any reason to interfere the order of the Commissioner (Appeals). Accordingly, the appeal filed by the Revenue is rejected.

Order dictated & pronounced in open court on 25.05.2009.

(P.K. Das)
Member (Judicial)

Ckp.