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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. ST/840 /2008 – SM[BR] Date 22/06/2009

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

To :
M/S METAL ENGG. & FORGING CO.
7/20, VIDHYADHAR NAGAR, JAIPUR.

M/S METAL ENGG. & FORGING CO. Appellant
Vs
C.C.E. JAIPUR I Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 601 / 2009 –SM[BR] dated 1.6.2009 passed by the Tribunal under Section 129, (B) of the Customs Act,1962 & Financial Act 1994 relating to Service Tax

Assistant Registrar
(SM Appeal Branch)

Copy to :
1. Respondent
   C.C.E. JAIPUR I
   N.C.R.BUILDING, STATUE CIRCLE, "C" SCHEME, JAIPUR 302005.
2. Adv. / Consult
   MR.ALOK KOTHARI
   A-92, MANISH MARG, NEMI NAGAR, GANDHI PATH, VAISHALI NAGAR, JAIPUR
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

ST/840 of 2008-SM (BR)

[Arising out of Order-in-Original No.31/2008 (ST)Comm. Dated 28.08.2008 passed by the Commissioner of Central Excise, Jaipur-I]

Date of Hearing/ Decision:1.6.2009

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.		No
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?	:	Yes.

M/s. Metal Engg. & Forging Company ...Appellants
[Rep. by Shri Alok Kothari, Chartered Accountant]

Vs.

CCE, Jaipur-I ...Respondent
[Rep. by Shri S.K. Bhaskar, DR]

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

Final Order No...601/09-SM (DB)/Dated:01.06.2009

Per P.K. Das:

Heard both sides and perused the records.

2. The main contention of the ld. Chartered Accountant in this case is that the Asstt. Commissioner dropped the proceedings in respect of

demand of tax of Rs.2,25,683/- on the ground that the said amount already covered by the total demand in another show cause notice dated 25.06.2004 for the period April, 1999 to March, 2001 and the Joint Commissioner of Central Excise by Order dated 30.11.2005 confirmed the demand of duty of Rs.7,45,656/- against the said show cause notice dated 25.06.2004. The amount in question in the present case has already been covered by the other Adjudication Order dated 30.11.2005. The Commissioner reviewed the present Adjudication order under Section 84 of the Finance Act, 1994. He confirmed the demand of tax of Rs.2,25,683/- and imposed penalty along with interest.

3. After hearing both the sides and on perusal of the records, it is seen from the impugned order that the Commissioner observed that he has forced to decide this case in spite of the fact that the Department has filed appeal in CESTAT in the similar case in which the amount of demand of Rs.2,25,683/- is included. It is the contention of the ld. DR that the Joint Commissioner vide Adjudication Order dated 30.11.2005 confirmed the demand of tax, which was set aside by the Commissioner (Appeals). In this context, ld. Counsel submits that the Revenue filed appeal before the Tribunal against the order of the Commissioner (Appeals).The Tribunal vide Final Order No.ST/328/08 dated 14.10.08 upheld the demand of tax and set aside the penalties. It is revealed from the impugned order of the Commissioner that the amount in question has already been included in

other proceedings wherein the Tribunal upheld the demand of tax and set aside the penalty.

4. In view of that, the impugned order passed by the Commissioner is set aside. The order of the Asstt. Commissioner of Central Excise is restored. The appeal filed by the appellant is allowed.

Order dictated & pronounced in open court on 1.6.2009.

(P.K. Das)
Member (Judicial)

Ckp.