

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
SINGLE MEMBER APPEAL BRANCH

Date 07/07/2009

Appeal No. E/1142/2009 - SM[BR] E/ STAY/ 1123/2009-SM[BR]

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

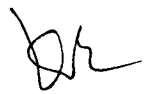
To :
M/S AUTO IGNITION LTD.
PLOT NO. 1, 19/6, MATHURA ROAD, FARIDABAD.
M/S AUTO IGNITION LTD.

Appellant

Vs
Respondent

C.C.E. DELHI IV

I am directed to transmit herewith a certified copy of Final order No. 644 / 2009 -SM[BR] & S/342/2009 dated 1.7.2009 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. DELHI IV

NEW CGO COMPLEX, NH-IV, FARIDABAD, HARYANA 121001.

2. Adv. / Consult

MR.K.L. HANDA, CONSULTANT,

689, SECTOR-16, FARIDABAD-121002.

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 Publications 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 Kuni, New Delhi - 110070

13 Taxmann Allied Service Pvt Ltd., 21/35, West Puniabi 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 (Harvana)

16 Office Copy

17 Guard file


Assistant Registrar
(SM Appeal Branch)

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

Excise Stay Application No.1123 of 2009-SM (BR) in
Appeal No.1142 of 2009-SM (BR)

[Arising out of Order-in-Appeal No.I/CE/APPL/DLH-IV/2009 dated 2.2.2009
passed by the Commissioner of Central Excise (Appeals), Faridabad]

Date of Hearing/ Decision:01.07.09

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. | : | } NA |
| 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. Auto Ignition Ltd.

...Appellants

[Rep. by Shri K.L. Handa, Consultant]

Vs.

CCE, Delhi-IV

...Respondent

[Rep. by Shri R.K. Saini, DR]

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

Final Order No. 644/2009 SM (BR) /Dated:1.7.2009
Per P.K. Das: S-342/2009 SM (BR)

As the issue involved in this case is in narrow compass and,
therefore, after granting stay, the appeal is also taken up for hearing.

2. After hearing both the sides, I find that the issue involved in this case is as to whether the appellant is eligible to avail Cenvat Credit on Plastic Crate/Bins. The Original Authority disallowed the credit of Rs.72,993/- and imposed penalty of equal amount, which was upheld by the Commissioner (Appeals).

3. Ld. Counsel submits that after passing of the order of the Commissioner (Appeals), the matter has been decided by the Larger Bench of the Tribunal in the case of Banco Products (India) Ltd. Vs. CCE, Vadodara-I reported in 2009 (235) ELT 636 (T-LB), which was held in favour of the assessee.

4. On perusal of the decision of the Larger Bench of the Tribunal, I find that it was decided that the Modvat credit is available to the Plastic Bins/Crates used as material Handling Equipment in the factory premises as capital goods has been held admissible.

5. In view of the decision of the Larger Bench of the Tribunal in the case of Banco Products (India) Ltd. (supra), the impugned order is set aside. The appeal is allowed with consequential relief. The Stay application is disposed of.

Order dictated & pronounced in open court on 01.07.2009.

(P.K. Das)
Member(Judicial)

Ckp.