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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/660 /2007 – SM [BR] Date 21/07/2009

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

To :
M/S HIRA STEELS LTD.
RAWABHATA, RAIPUR (C.G.)

M/S HIRA STEELS LTD. Appellant
Vs
C.C.E. RAIPUR Respondent

I am directed to transmit herewith a certified copy of **Final order No** 724 / 2009 –SM[BR] dated 15.7.2009 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. RAIPUR
   CENTRAL EXCISE BUILDING, DHAMTARI ROAD, TIKRAPARA RAIPUR
2. Adv. / Consult
   MR.K.K ANAND
   A-5,BASEMENT,LAJPAT NAGAR-III NEW DELHI-24

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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(SM Appeal Branch)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

West Block No.2, R.K.Puram, New Delhi

COURT-IV

Date of hearing/decision:15.7.2009

Central Excise Appeal No.660 of 2007-SM(BR)

Arising out of the order in appeal No.13-ST/RPR-I/2006 dated 11.12.2006 passed by the Commissioner (Appeals-I) Central Excise & Customs, Raipur (C.G.).

For Approval and Signature:

Hon'ble Mr. M. Veeraiyan, Member (Technical)

1	Whether Press Reporter may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	No
2	Whether it should be released under Rule 27 of CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	Yes
3	Whether their Lordships wish to see the fair copy of the Order?	Seen
4	Whether Order is to be circulated to the Departmental authorities?	Yes

M/s Hira Steels Limited .... Appellant

Vs.

C.C.Ex.& Customs , ... Respondent
Raipur

Appearance:

Shri Hemant Bajaj, Advocate for the appellants
Shri Iskitkhar Baig, Authorized Departmental Representative (DR) for the Revenue

Coram: Hon'ble Shri M. Veeraiyan, Member (Technical)

Final Oral Order No. 724/2009-SM(BR)

Per M. Veeraiyan:

This is an appeal against the order of Commissioner (Appeals) No. 13-ST/RPR-I/2006 dated 11.12.2006.

2. Heard both sides.

3. The relevant facts, in brief, are that the appellant has availed credit of service tax paid during the period from 1.3.05 to October, 2005 and a sum of Rs.79,462/- is being objected to on the ground that the credit has been taken on the basis of TR-6 challans which was a valid document only with

effect from 15.6.05; a sum of Rs.13,227/- is sought to be denied on the ground that the said amount relates to credit of tax paid on the portion of freight which is related to transportation of finished goods from the place of removal; similarly, a sum of Rs.20,635/- relating to the period from 16.6.05 to October 2005 is sought to be denied on the ground that the tax relates to freight paid to the Goods Transport Agency on the services used for removal of goods from the place of removal.

4. Learned Advocate for the appellant submits that as recipient of services under the Head "Goods Transport Agency" the appellant themselves paid the service tax in respect of inward freight under TR-6 challans and took the same as Cenvat credit. The service tax paid is not in dispute. Therefore, the credit availed should be held admissible. He relies on the decision of the Tribunal in the case of Gaurav Krishna Ispat (P) Ltd. vs. C.C.E., Raipur reported in 2009 (13) STR 629 (Tri-Del.).

5. As regards the other issue, he submits that in the case of M/s ABB Ltd. and others reported in 2009 - TION- 830 - CESTAT - Bang. - LB, the issue has been decided in favour of the assessee by the Larger Bench.

6. Learned SDR reiterates the finding and reasoning of the Commissioner (Appeals).

7. I have carefully considered the submissions from both sides. I find that the service tax payment by TR-6 challans by the appellant is not in dispute. Whether TR-6 challans could be considered as valid document for the purpose of taking credit has been considered by the Tribunal in the case of Gaurav Krishna Ispat (P) Ltd. and held that the same is admissible for the period prior to 16.6.2006 also.

8. Further , as rightly pointed by the learned Advocate, the Larger Bench of the Tribunal in the case of ABB Ltd. has held that " the services availed by a manufacturer for outward transportation of final products from the place of removal should be treated as an input service in terms of Rule 2(1)(ii) of the CENVAT Credit Rules, 2004 and thereby enabling manufacturer

to take credit of the service tax paid on the value of such services."

9. In the light of the above, the appeal is allowed with consequential relief.

(M. Veeraiyan)
Member (Technical)

scd/