

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/668 /2008 – SM[BR]

Date 26/08/2009

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

To :
C.C.E. RAIPUR

CENTRAL EXCISE BUILDING, DHAMTARI ROAD,
TIKRAPARA, RAIPUR 492001.

C.C.E. RAIPUR

Appellant

Vs

Respondent

M/S CHAMPION CERAMICS PVT. LTD.

I am directed to transmit herewith a certified copy of **Final order No. 1076 / 2009 –SM[BR]** dated 17.8.2009
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

M/S CHAMPION CERAMICS PVT. LTD.

POST-CHAMPA, DISTT-JANJGIR-CHAMPA (C.G.)

2. Adv. / Consult

NONE;-----

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 Kunj, New Delhi - 110070

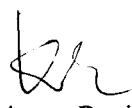
13 Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh, New Delhi - 110026

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 (Harvana)

16 Office Copy

17 Guard file


Assistant Registrar
(SM Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
COURT NO.II

E/Appeal No.668/2008 -SM(Br)

(Arising out of order in appeal No.14/ST/RPR/I/06 dated 30.6.2008
passed by the Commissioner of Central Excise (Appeals), Raipur)

CCE, Raipur

Appellant

Vs

M/s Champion Ceramics Pvt Ltd

Respondent

Appeared for Appellant : Shri S.K. Bhaskar, DR
Appeared for Respondent : None

Date of Hearing: 5.8.09

Coram: Hon'ble Mr.D.N. Panda, Judicial Member

final Order No. 1076/2009 SM(Br)
/2009

Per D.N. Panda:

None present for respondent.

2. Revenue does not permit discharge of tax liability utilizing the Cenvat credit. Such a grievance no more remains in view of the decision of the Tribunal in the case of Bhushan Power & Steel Ltd Vs CCE, BBSR reported in 2008 (10) STR 18 (Tri. Kol). The reasoning given in that case appears in para 6 of the decision, which is reproduced for convenience of reading:-

"After hearing both sides and on perusal of the case records as well as the cited decisions, we are of the view that the case of the appellants is squarely covered by the said decisions of the Tribunal. As such, we do not find any merit in the request of the Department to hear the regular appeal on another date. The appellants are clearly entitled to utilize the credit

available to them in respect of the input service towards payment of the service tax on GTA services which is an output service by definition. Hence, applying the ratio of the cited decisions, we set aside the impugned order and allow the appeal.

3. Even to say as above, my view is fortified from the decision of the Hon'ble High Court of Bombay in the case of Lloyds Steel Industries Vs Union of India reported in 2005 (183) ELT 351 (Bom). Hon'ble Court has held that making payment of duty demand by debiting the current account or utilizing Cenvat credit account is not impermissible.

4. In view of the above, Revenue's appeal is dismissed.

(Order dictated and pronounced in the open Court).

(D.N. Panda)
Judicial Member

MPS*