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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/2838/2007 – SM[BR] Date 15/01/2010

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

To :
C.C.E ALLAHABAD
38,M.G.MARG, CIVIL LINES, ALLAHABAD

C.C.E ALLAHABAD Appellant

Vs

M/S BAJAJ HINDUSTAN SUGAR INDUSTRIES LTD. Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 84 / 2010 –SM[BR] dated 12.1.2010 passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent

M/S BAJAJ HINDUSTAN SUGAR INDUSTRIES LTD.
UNIT PRATAPPUR, DISTT. DEORIA, (U.P)(FORMERLY PRATAPPUR SUGAR & INDUSTRIES LTD. PRATAPPUR

2. Adv. / Consult SHRI BIPIN GARG ADV.
B-1/1289-A, VASANT KUNJ NEW DELHI

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, COURT NO. III

Excise Appeal No. 2838 of 2007-SM(BR)

[Arising out of Order-in-Appeal No. 162-163/CE/ALLD/2007 dated 28.8.2007 passed by Commissioner of Central Excise (Appeals), Allahabad]

For approval and signature:

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

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1. Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982? : Yes
2. Whether it should be released under Rule 27 of the 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

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Commissioner of Central Excise
Allahabad — Appellants

Vs.

M/s. Bajaj Hindustan Sugar Industries Ltd. — Respondent

Appearance:

Shri S.N. Srivastava, SDR for the Appellants
Shri Atul Gupta, Company Secretary for the Respondent

Date of Hearing/decision : 12.1.2010

ORAL ORDER NO. 84/2010 SM(BR)

Per M. Veeraiyan:

Heard both sides. Perused the invoices produced in pursuance of order dated 8.10.2009.

2. This is an appeal by the Department against the order of the Commissioner (Appeals) by which order of the original authority demanding duty of Rs.33,902/- and imposing a penalty of Rs.10,000/- was set aside. The issue involved is that the appellant ordered for certain inputs from Tube Investment India Ltd. and invoices were raised on the appellants. The appellants got their goods processed through a job worker by name of M/s. Fluid Line Engineers & Fabricators (P) Ltd. The invoices of the suppliers indicated the appellants' name as the buyers and the name of the job workers as consignee. In other words, the appellants are owners of the inputs and got the goods processed through job worker and undisputedly the final products came back to the appellants' premises and discharged the duty liability. The original authority confirmed the demand of duty only on the ground that material without being received in the appellants' premises went directly to the job workers' premises and the said fact was not informed to the Department. The Commissioner (Appeals), appreciating the above factual position and taking into account the decision of the Tribunal in the case of Yashwant Process Works vs. CCE, Ahmedabad [2004 (166) ELT 508 (Tri-Mum)] held that there was no prohibition in the Cenvat Credit Rules in sending inputs directly to the job worker. Considering that the decision of Commissioner (Appeals) is based on precedent decision of the Tribunal, I

hold that there is no ground for interfering with the order of the Commissioner (Appeals). Further the amount in dispute is also meagre.

3. The appeal is, therefore, rejected.

(M. Veeraiyan)
Member(Technical)

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