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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

Date 08/01/2010

Appeal No. E/395 /2008 – SM[BR]

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

To :
C.C.E. MEERUT I
EXCISE CHOWK, UNIVERSITY ROAD, MANGAL
PANDEY NAGAR, MEERUT - 250005. Appellant
C.C.E. MEERUT I Vs
Respondent

M/S SUYASH KRAFT & PAPERS LTD

I am directed to transmit herewith a certified copy of **Final order No**. 25 / 2010 –SM[BR] dated 31.12.2009 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 SUYASH KRAFT & PAPERS LTD
VEHLNA,MUZAFFARNAGAR
2. Adv. / Consult SHRI RAJESH CHIBBER ADV.
FA-9, NEW KAVI NAGAR GHAZIABAD

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. IV

Excise Appeal No. 395 of 2008-SM(BR)

[Arising out of Order-in-Appeal No. 232-CE/MRT-I/07 dated 22.11.07 passed by Commissioner of Central Excise (Appeals) Meerut-I]

For approval and signature:

Hon'ble Mr. Rakesh Kumar, 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? :
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? :

Commissioner of Central Excise
Meerut I — Appellants

Vs.

M/s. Suyash Kraft & Papers Ltd. — Respondent

Appearance:

Shri S.N. Srivastava, SDR for the Appellants
Shri Rajesh Chibber, Advocate for the Respondent

Date of Hearing/decision : 31.12.2009

ORAL ORDER NO. 25/2010 SM (BR)

Per Rakesh Kumar:

This is an appeal filed by the Revenue against the order-in-appeal No. 232-CE/MRT-I/07 dated 22.11.07. The issue involved in this case is as to whether during the period prior to 16.6.2005 the Cenvat credit of service tax on GTA service availed by the appellant could be taken on the basis of TR-6 challans. The Assistant Commissioner vide order-in-original No. 100/AC/06 dated 29.12.2006 has disallowed the Cenvat credit amounting to Rs.41,752/- for the period from 1.1.2005 to 15.6.2005 and confirmed its demand along with interest. On appeal, the Commissioner (Appeals) vide impugned order-in-appeal No. 232-CE/MRT-I/07 dated 22.11.07, set aside the Assistant Commissioner's order.

2. Heard both sides.

3. Shri S.N. Srivastava, SDR, pleaded that it is only by amendment to Cenvat Credit Rules, 2004 effective from 16.6.2005 that TR challans were made valid document for taking Cenvat credit, that since this amendment is not retrospective, for the period prior to 16.6.2005, TR-6 challans cannot be treated as valid document for taking the Cenvat credit and that in view of this, impugned order permitting Cenvat credit on the basis of TR-6 challans for the period prior to 16.6.2005 is not correct.

3. Shri Rajesh Chibber, Advocate, the learned Counsel for the respondent pleaded that this issue stands settled by series of judgements of the Tribunal as the Tribunal in the cases of CCE vs. Crompton Greaves Ltd. reported in [2008 (226) ELT 117]; CCE vs. Essel Pro-Pack Ltd.

reported in [2007(8)STR 609]; Gaurav Krishna Ispat (P) Ltd. vs. CCE, Raipur reported in [2009(13) STR 629(Tri-Del)] and also in a recent judgement in the case of M/s. Hira Steels Ltd. vs. CCE, Raipur (Final Order No. 724/2009-SM(BR) dated 15.7.2009) has held that even during the period prior to 16.5.2006, TR-6 challan was a valid document for taking Cenvat credit. Shri Chibber therefore, pleaded that the view of settled position on this issue, the impugned order is correct and there is no merit in the Revenue's appeal.

4. I have carefully considered the submissions from both sides and perused the records. The only issue involved in this case is as to whether during the period prior to 16.6.2005, TR-6 challan was a valid document for availing Cenvat credit. Since this issue stands settled against the Revenue by the Tribunal in a series of judgments in the cases of Gaurav Krishna Ispat (P) Ltd. vs. CCE, Raipur (supra), CCE vs. Crompton Greaves Ltd. (supra), CCE vs. Essel Pro-Pack Ltd. (supra) and M/s. Hira Steels Ltd. vs. CCE, Raipur (supra), I do not find any infirmity in the impugned order. The Revenue's appeal is, therefore, dismissed.

(Rakesh Kumar)
Member(Technical)

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