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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/994 /2009 – SM[BR] Date 20/10/2009

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

To :
M/S U FLEX LTD
29-B, INDUSTRIAL AREA MALANPUR, DISTT. BHIND

M/S U FLEX LTD Appellant
Vs
C.C.E. INDORE Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 1281 / 2009 –SM[BR] &S / 585 / 2009 dated 7.9.2009 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. INDORE
MANIK BAGH PALACE, POST BOX NO. 10, INDORE 452001 (M.P.)
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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Assistant Registrar
(SM Appeal Branch)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
West Block-2, R.K. Puram, New Delhi.
Principal Bench, New Delhi

Date of hearing: 07.9.2009

E/Stay/954/09-SM(BR) in
Appeal No. E/994/09-SM(BR)

(Arising out of Order-in-Appeal No.IND-1/03/2009 dated 15.01.2009 passed by the Commissioner of Customs & Central Excise, Indore).

For approval and signature:

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

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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? No
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

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M/s U. Flex Ltd. Appellants/Applicants
vs.
CCE, Indore Respondent

Appearance:

Shri H. Bajaj, Advocate for the Appellants/Applicants and
Shri I. Baig, SDR for the Respondent

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

Final Order No. 1281/2009 SM(Br)
STAY ORDER - 585/2009 SM (Br)

Per: P.K. Das

After hearing both the sides and perusal on of the records, I find that the issue involved in this case is in narrow campass and, therefore, after granting stay, the appeal is taken-up for hearing.

2. Original Authority disallowed Cenvat credit of Rs.7,715.00 and imposed penalty of equal amount alongwith interest.

3. The Commissioner (Appeals) modified the Adjudication Order, in so far as penalty was reduced to Rs.4,000.00. The issue involved in this case is related to allowing of Cenvat credit in respect of service tax paid on transportation of goods from the factory to the customer's place. The Larger Bench of the Tribunal in the case of ABB Ltd. Vs. Commissioner of Central Excise & S.T. Bangalore reported in 2009 (15) S.T.R. 23 (Tri.-LB) as under:

> "In the light of the discussion, we hold that the definition of "input service" has to be interpreted in the light of the requirements of business and it cannot be read restrictively so as to confine only upto the factory or upto the depot of manufactures.
>
> In the result, we answer the reference by holding 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 the manufacturer to take credit of the service tax paid on the value of such services."

4. In view of the decision of the Larger Bench of Tribunal in the case of ABB Ltd. (supra), the appellant is eligible for

availing input credit of service tax paid on goods Transport Agency Service. Accordingly, the impugned order is set-aside. The appeal is allowed with consequential relief. The Stay application is disposed of.

(Dictated and pronounced in the open court.)

(P.K. Das)
Member (Judicial)

K. Gupta