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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/2719/2007 – SM[BR] Date 04/11/2009

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

To :
SIMPLEX ENGINEERING & FOUNDRY WORKS PVT LTD
64/65, INDUSTRIAL ESTATE, BHILAI(CG)
490026

SIMPLEX ENGINEERING & FOUNDRY WORKS PVT LTD — Appellant

Vs

C.E. RAIPUR — Respondent

I am directed to transmit herewith a certified copy of **Final order No. 1385 / 2009 -** SM[BR] dated 21.10.2009 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 492001.
2. Adv. / Consult
   MR.L.P ASTHANA
   R-163, SECOND FLOOR, GREATER KAILASH-1, NEW DELHI - 110 048.
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)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

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

COURT-III

Date of hearing/decision: 21.10.2009

Central Excise Appeal No.2719 of 2007-SM

Arising out of the order in appeal No.93/RPR-II/2007 dated 30.5.2007 passed by the Commissioner(Appeals), Central Excise, Raipur, Chattishgarh.

For Approval and Signature:

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

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?	No.
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 Simplex Engineering & Foundry Works Pvt. Ltd. .... Appellant

Vs.

C.C.E., Raipur I .... Respondent

Appearance:

Shri Abhishek Jaju , Advocate for the appellants
Shri Mahesh Rastogi, Authorized Departmental Representative (SDR) for the Revenue

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

Oral Order No. 1385/2009 SM(BR)

Per P.K. Das:

After hearing both sides and on perusal of the records I find that the appellants availed Cenvat credit of Rs.2,05,637/- on the basis of TR-6 challan within the period January 2005 and June, 2005. Show cause notice was issued proposing to deny the credit availed on the basis of TR-6 challan which is not a document as prescribed under Service Tax Rules. The original authority dropped the proceedings. Revenue filed appeal before the Commissioner (Appeals) whereby the adjudication order was set aside.

2. I find that the Tribunal in the case of Gaurav Krishna Ispat (I) Pvt. Ltd. vs. C.C.E., Raipur - 2005 (13) STR 629 (Tri-Del.) held that credit on service tax paid on GTA service availed on the basis of TR-6 challan prior to 16.6.05 is a valid document. It is also noted that the Tribunal in the case of C.C.E. vs. Crompton Greaves Ltd. - 2008 (226) ELT 117 (Tri.) and in the case of C.C.E. vs. Essel Pro-Pack Ltd. - 2007 (8) STR 609 whereby the credit was allowed to avail on the basis of TR-6 challan prior to Notification No.28/2005-CE dated 7.6.05.

3. In view of the above, the impugned order cannot be sustained. Hence the impugned order is set aside and the appeal is allowed with consequential relief.

(P.K. Das)
Member (Judicial)

scd/