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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/2831/2007 – SM[BR] Date 06/11/2009

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

To :
M/S GOODLUCK STEEL TUBES LTD.
A-45,INDL. AREA, SIKANDRABAD

M/S GOODLUCK STEEL TUBES LTD. Appellant
Vs
C.C.E. NOIDA Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 1408 / 2009 –SM[BR] dated 8.10.2009 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. NOIDA
   C-56/42, SECTOR-62, NOIDA-201307
2. Adv. / Consult
   MR.RAJESH CHHIBBER
   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)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No.2, R. K. Puram, New Delhi-66
COURT-III

Date of hearing/decision: 8.10.2009

Excise Appeal No. 2831 of 2007-SM

[Arising out of Order-in-Appeal No.83/CE/Appl/NOIDA/07 dated 31.7.2007 passed by the Commissioner (Appeals), Central Excise, NOIDA].

For approval and signature:

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

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

M/s Goodluck Steel Tubes Ltd. Appellants

Vs.

Commissioner of Central Excise, NOIDA Respondents

Appearance:

Shri Rajesh Chhibber, Advocate for the appellants
Shri V.K. Saxena, Jt.CDR for the respondents

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

Oral Order No. 1408/2009 SM (Br)

Per P.K. Das :

Heard both sides and perused the records. After hearing both the sides I find that issue involved in this appeal is as to whether outward transportation upto the place of removal is within the definition of input service under Rule 2(1) of Cenvat Credit Rules, 2004 and whether the credit of service tax paid on outward transportation of goods upto the place of removal is permissible under Rule 3 of Cenvat Credit Rules, 2004.

2. Learned Advocate submits that on the same issue, for the subsequent period original authority has dropped the demand of duty vide order –in-original No.33/AC/NZ/09 dated 12.8.09 following the decision of Larger Bench of the Tribunal in the case of ABB Ltd. vs. Commissioner of Central Excise and Service Tax, Bangalore [2009 (15) STR 23 (Tri-LB)]. He has also followed the decision of the Hon'ble Punjab and Haryana High Court in the case of Gujarat Ambuja Cement Ltd. [2009 (14) STR 3 (P&H)]. The ld. Advocate drew attention of the Bench to the relevant portion of the order-in-appeal that the outward freight charges is incurred for transporting the finished goods manufactured and cleared by them from the factory to buyer ~~supplier~~s place. On the other hand, Larger Bench of the Tribunal in ABB Ltd. (supra) held that services availed by the manufacturer for outward transportation from the place of removal should be treated as in input service in terms of Rule 2(1)(ii)(i) of Cenvat Credit Rules, 2004.

3. In view of the above decision, the impugned order is set aside. The appeal filed by the appellant is allowed with consequential relief.

(P.K.Das)
Member(Judicial)

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