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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/1302/2008 – SM[BR] Date **05/01/2011**

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

To :
M/S TRIVENI ENGG & INDS LTD
UNIT-DEOBAND,DISTT- SAHARANPUR.

M/S TRIVENI ENGG & INDS LTD Appellant

Vs

C.C.E. MEERUT I Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 17 / 2011 –SM[BR] dated 3.11.2010 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. MEERUT I
EXCISE CHOWK, UNIVERSITY
ROAD, MANGAL PANDEY
NAGAR, MEERUT - 250005.
2. Adv. / Consult
MR.RAJESH CHHIBBER
FA/9, NEW KAVI NAGAR,
GHAZIABAD
3. C.D.R
4. Bar association, CESTAT, New Delhi
5. Director Publications, Customs, Excise. I.P. Estate, New Delhi
6. M/s Centax Publictions Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi -
7. Company Law Institute of India Pvt Ltd.,No.2(Old No. 36), Vaithyaram Street, T. Nagar,Chennai -17
8. M/s. Deeparchie Publications, M-93, Marg. 46, Saket, New Delhi 110017
9. Taxmann Allied Service Pvt Ltd., 59/32, New Rohtak Road, New Delhi - 110005
10. Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road, Ahmedabad-15
11. LAWCRUX Advisors Pvt Ltd, LAW House,1-8,Sector - 10, Faridabad 121003 (Haryana)
12. TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor,Vasant Arcade,Nelson Mandela Road, Vasant Kunj, New Delhi - 110070
13. Office Copy
14. Guard file

Assistant Registrar
(SM Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST BLOCK NO.II, R.K. PURAM, NEW DELHI-110066.
SINGLE MEMBER BENCH

Excise Appeal No.1302 of 2008

(Arising out of Order-in-Appeal No.80-CE/MRT-I/2008 dated 28.3.07 passed by the CCE & C (A), Meerut-I)

Date of Hearing: 03.11.2010
Date of Decision: 03.11.2010

For approval and signature:
Hon'ble Mr.Ashok Jindal, 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?	
3	Whether Their Lordships wish to see the fair copy of the Order?	
4	Whether Order is to be circulated to the Departmental authorities?	

M/s.Triveni Engineering & Industries Ltd. Appellant
Vs.

CCE, Meerut-I Respondent

Present for the Appellant: Shri Rajesh Chhibber, Advocate
Present for the Respondent: Shri K.K.Jaiswal, SDR

Coram: Hon'ble Mr.Ashok Jindal, Member (Judicial)

Final **ORDER NO.** 17 / 2011 SM (Br)

PER: ASHOK JINDAL

The appellant is in appeal against the order of denial of credit on the welding electrodes are used for repair and maintenance of the plant and machinery of the appellant

2. Shri Rajesh Chhibber, learned Advocate for the appellant submits that the issue has already been settled by the Hon'ble Chhattisgarh High Court in the case of Ambuja Cements Eastern Ltd. vs. CCE, Raipur reported in 2010 (256) ELT 690 wherein it

was held that welding electrodes used in repairs/maintenance of plant and machinery, the assessee is entitled for input credit.

3. On the other hand, learned SDR submits that in the case of SAIL vs. CCE, Ranchi reported in 2008 (229) ELT A-127 wherein the Hon'ble Supreme Court has denied the input credit on the welding electrodes used for repairs/maintenance of plant and machinery.

4. Heard and considered.

5. On careful consideration of the submissions made by both sides, I find that in the of SAIL the Hon'ble Supreme Court has held that where earlier Modvat Credit Rules were applicable but in the case of Ambuja Cements Eastern Ltd., the Hon'ble Chhattisgarh High Court has passed the order after considering the decision in the case of SAIL passed by the Hon'ble Supreme Court. In the case of Alfred Herbert (India) Ltd the Hon'ble karnataka High Court held that the welding electrodes used for repairs/maintenance of plant and machinery are entitled for input credit.

9. Accordingly, the appellants are entitled for input credit on the welding electrodes used for repairs/maintenance of plant and machinery.

10. With these observations, the impugned order is set aside and the appeal is allowed with consequential relief as pre as law.

(Pronounced in the open court)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

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