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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/2109/2009 – SM[BR] Date **02/02/2011**

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

To :
M/S PRODELIN INDIA PVT LTD

A-69, SECTOR-58, NOIDA.

M/S PRODELIN INDIA PVT LTD Appellant

Vs

C.C.E. NOIDA Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 93 / 2011 – SM[BR] dated 25.1.2011 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.S.D.GAUR
SB-108, SHASTRI NAGAR,
GHAZIABAD.
3. C.D.R
4. Bar association. CESTAT. New Delhi
5. Director Publications. Customs. Excise. I.P. Estate. New
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 -
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)

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, COURT NO. III

Excise Appeal No. 2109 of 2009-SM(BR)

[Arising out of Order-in-Appeal No. 110/CE/NOIDA/2009 dated 27.4.2009 passed by the Commissioner of Customs & Central Excise (Appeals), NOIDA]

For approval and signature:

Hon'ble Mr. M. Veeraiyan, 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? : NO
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? : Seen
4. Whether Order is to be circulated to the Departmental authorities? : NO

M/s. Prodelin India (P) Ltd. — Appellants

Vs.

Commissioner of Central Excise NOIDA — Respondent

Appearance:
Shri S.D. Gaur, Consultant for the Appellants
Shri Krishna Pratap Singh, SDR for the Respondent

Date of Hearing/decision : 25.01.2011

Final

ORAL ORDER NO. 93/2011 SM (BR)

Per M. Veeraiyan:

Heard both sides.

2. The impugned order confirms the order of original authority by which a demand of 10% of value of exempted products in terms of Rule 6(3)(b) of Cenvat Credit Rules, 2004 on the ground that the appellants have not maintained separate accounts in respect of common inputs used for such exempted products.

3. Both sides submit that the Rule 6(3)(b) of Cenvat Credit Rules, 2004 stands amended retrospectively by section 72 of the Finance Act, 2010 enabling payment of credit attributable to inputs which have gone into such exempted products.

4. Learned Consultant submits that they propose to seek the benefit of amendment to Rule 6 of the Cenvat Credit Rules, 2004. To enable the same, I set aside the order of Commissioner (Appeals) and the order of original authority and remit the matter to Commissioner to consider the application as per law for regularisation in terms of amended Rule 6 of Cenvat Credit Rules, 2004.

(M. Veeraiyan)
Member(Technical)

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