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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/988 /2009 – SM [BR]** Date **21/04/2011**

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

To :
C.C.E. RAIPUR
CENTRAL EXCISE BUILDING, DHAMTARI ROAD,
TIKRAPARA, RAIPUR 492001.
C.C.E. RAIPUR Appellant
Vs
M/S STEEL AUTHORITY OF INDIA LTD. Respondent

I am directed to transmit herewith a certified copy of **Final order No. 197 / 2011 –SM[BR]** dated 3.3.2011 passed by the Tribunal under **Section 35-C(1)of Central Excises Act, 1944**

Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent
M/S STEEL AUTHORITY OF INDIA LTD.
BHILAI STEEL PLANT, ROOM NO.
118, ISPAT BHAWAN, BHILAI
(C.G.)

2. Adv. / Consult **SHRI V.LAKSHMIKUMARAN ADV.**
B-6/10, SAFDARJUNG ENCLVE NEW DELHI-29.

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)

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

Excise Appeal No.988 of 2009-SM

(Arising out of Order-in-Appeal No.09/RPR/-II/2009 dated 20.2.2009 passed by the CCE (A), Raipur)

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?	

CCE, Raipur — Appellants

Vs.

M/s.Steel Authority of India Ltd. — Respondent

Present for the Appellant: Ms.R.Prasad, SDR
Present for the Respondent: Shri Hemant Bajaj, Advocate

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

Date of Hearing/Decision: 03.03.2011

Final **ORDER NO.** 197/2011 SM (Br)

PER: ASHOK JINDAL

The Revenue has filed this appeal against the impugned order of the Commissioner (Appeals) for remanding the matter back to the Adjudicating for afresh adjudication.

2. Learned SDR for the Revenue submitted that the power of remand by the Commissioner (Appeals) has been withdrawn by Finance Act, 2001 with effect from 11.5.2001. Hence, the impugned order is to be set aside and the same may be sent back to the Commissioner (Appeals) to decide the issue on merits. To support contention, she relies upon the decision of Hon'ble Supreme Court in the case of MIL India Ltd. vs. CCE, Noida reported in 2007 (210) ELT 188 (SC).

3. Heard and considered.

5. It is well settled law that the Commissioner (Appeals) has no power to remand to the adjudicating authority. The same has been confirmed by the Apex Court in the case of MIL India Ltd (supra). Hence, the impugned order is set aside by way of remand to the Commissioner (Appeals) to decide the issue afresh after giving a reasonable opportunity to the respondents to represent their case.

(pronounced in the open court)

(ASHOK JINDAL)
MEMEBR (JUDICIAL)

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