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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/3046/2007 – SM[BR]** Date **21/07/2011**

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

To :
M/S SONA WIRES PVT. LTD.

PLOT NO 269-305,URLA INDUSTRIAL AREA, RAIPUR
(CG)

M/S SONA WIRES PVT. LTD. Appellant

Vs

C.C.E. RAIPUR Respondent

I am directed to transmit herewith a certified copy of **Final order No. 417 /2011-SM[BR]** dated 13.7.2011 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. RAIPUR
CENTRAL EXCISE BUILDING,
DHAMTARI ROAD, TIKRAPARA,
RAIPUR 492001.

2. Adv. / Consult
MR.K.K ANAND
A-5,BASEMENT,LAJPAT NAGAR-III NEW DELHI-24

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. Taxmann Allied Service Pvt Ltd., 59/32, New Rohtak Road, New Delhi -
9. Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road, Ahmedabad-15
10. LAWCRUX Advisors Pvt Ltd, LAW House,1-8,Sector - 10, Faridabad 121003 (Haryana)
11. TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor,Vasant Arcade,Nelson Mandela Road, Vasant Kunj, New Delhi - 110070
12. Office Copy
13. 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
Court-IV
Appeal No.E/3046 of 2007-SM

Date of Hearing/Decision: 13.07.2010

(Arsing out of Order-in-Appeal No.184/RPR-I/2007 dated 7.9.07 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?	

M/s.Sona Wires Pvt.Ltd. Appellant

Vs.

CCE, Raipur Respondent

Present for the Appellant: Shri Saurabh Yadav, Advocate
Present for the Respondent: Ms.R.k.Jagdev, SDR

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

Final **ORDER NO.** 417/2011 SM (BR)

PER: ASHOK JINDAL

The appellants have filed this appeal against the impugned order for denial of cenvat credit on the ground that TR-6 challan is not proper document to avail cenvat credit and cenvat credit is not admissible on outward goods transportation service.

2. Heard both sides.

3. Learned Advocate for the appellants submits that TR-6 challan is a valid document which shows payment of duty and is admissible to avail cenvat credit as held by this Tribunal in the case of Gabriel India Ltd. vs. CCE reported in 1993 (67) ELT 131. Therefore, the appellants have rightly taken the cenvat credit on the strength of TR-6 challan. He further submits that in the case of CCE vs.ABB Limited reported in 2011 (23) ELT STR 97, the issue regarding availability of cenvat credit on outward transportation service from the place of removal has been settled by the Hon'ble Karnataka High Court in favour of the assessee. Therefore, the appellants are entitled to take input service on outward transportation service.

4. On the other hand, Ms.Rneu Jagdev, learned SDR appeared on behalf of the Revenue submitted that prior to 16.6.05, the appellants are not entitled to take cenvat credit on the strength of TR-6 challan. She submitted that as provision for availing cenvat credit on the strength of TR-6 challan has been introduced with effect from 16.6.05, therefore, the lower authorities have rightly denied the cenvat credit on the strength of TR-6 challan. With regard to admissibility of cenvat credit on outward goods transportation service, she submitted that it is not clear upto which place the appellants are claiming input service credit on the GTA service. Moreover, the ownership of the goods is not being described by the appellants as whether is is in their own hand or passed to their buyers. Therefore, the case of CCE vs. ABB Limited is not applicable to the facts of the present case.

5. After considering the submissions made by both sides and as held by this Tribunal in the case of Gabriel India Ltd. cited supra that TR-6 is an instrument showing the payment of duty. Therefore, TR-6 challan is a valid document to avail cenvat credit. Therefore, in this case, the appellants are entitled to avail cenvat credit on the strength of TR-6 challan. With regard to input service credit on outward transportation service, Hon'ble Karnataka High Court case of CCE vs. ABB Limited has held that the assessee is entitled for input service credit on outward transportation of the goods from the place of removal an activity of their regular business. Therefore, in this case also the payment was made for removal of goods from the place of removal their factory gate. Therefore, the appellants are entitled for input service credit on GTA service as held by the Hon'ble Karnataka High Court case of CCE vs. ABB Limited. Therefore, the impugned order is set aside and the appeal is allowed.

(ASHOK JINDAL)
MEMBER (JUDICIAL)

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