

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/1098/2008 – SM[BR]

Date 09/08/2011

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

To :
M/S SHRI RATHI STEELS LTD
PLOT NO-E, PHASE III, UPSIDC IND. AREA, MUSSORI
GULAOTHI ROAD, TEHSIL HAPUR, GHAZIABAD
M/S SHRI RATHI STEELS LTD

Appellant

Vs
Respondent

C.C.E. MEERUT II

dated 20.7.2011

I am directed to transmit herewith a certified copy of Final order No. 457 / 2011-SM[BR]
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 II
OPP. SAHEED PARK (NEAR
ASHOK KI LAT) DELHI ROAD,
MEERUT (UP)

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

6. M/s Centax Publications 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 -

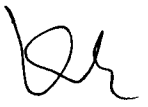
9. Easy Service Tax Online Dot Com Pvt. Ltd. 407A, Iscon Mall, Above Star India Bazar, Satellite Road,
Ahmedabad-15

10. LAWCRUX Advisors Pvt Ltd, LAW House.1-8, Sector - 10, Faridabad 121003 (Harvana)

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)

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

Excise Appeal No. E/1098/08-SM

[Arising out of Order-in-Appeal No.45-CE/MRT-II/2008 dated 25.02.2008 passed by the Commissioner (Appeals), Meerut-II].

M/s.Shri Rathi Steels Ltd.

...Appellant

Vs.

CCE, Meerut-II

... Respondent

Present for the Appellant :Rajesh Chhibber, Advocate
Present for the Respondent:Shri.S.K. Panda, D.R.

Coram: HON'BLE MR. D.N. PANDA, JUDICIAL MEMBER

Date of Hearing/Decision:20.07.2011

final ORDER NO. 457/2011 SM (Br) DATED: _____

PER: D.N.PANDA

Ld. Counsel submits that the authorities acted on the basis of the law that was in force at the time of completing adjudication and also the law appreciated at the time of passing of the first appellate order. In the meantime, Hon'ble High Court of Karnataka has decided similar issue which was involved in ABB Ltd. in the decision reported in 2011 (23) STR 97 (Kar.). He prays that the matter may be remanded for scrutiny in the light of decision made in that case.

2. On the other hand Id.JCDR submits that Revenue has a case following Ambuja Cements decision of Hon'ble High Court of Punjab and Haryana reported in 2009 (14) STR 3 (P & H) and Board Circular No.97/8/07-ST dated 23.8.2007. When the authorities have rightly examined the issue and most particularly in para 2 and 9 of the first Appellate Order there is no need to remand the matter.

3. Heard both sides and perused the record.

4. The decision cited by the Id. JCDR has been taken into consideration by the Hon'ble High Court of Karnataka while dealing the matter in para 27 and 32 of the judgement. So also the Circular in question was subject matter of scrutiny by the Hon'ble High Court in para 25 of the reported judgement. Therefore, it is preferable for the Original Authority to re-examine the issue in the light of decision of the Hon'ble High Court of Karnataka. Consequently, the appeal is remanded keeping all issues ^{open} before him for fresh adjudication, granting fair opportunity of hearing.

[Dictated & Pronounced in the open Court].

(D.N.PANDA)
JUDICIAL MEMBER

Anita