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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/1572/2009 – SM[BR] E / CO/ 185/ 2009-SM[BR]** Date **22/09/2011**

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

To :
C.C.E. DELHI III
UDYOG MINAR, UDYOG VIHAR, VANIJYA NIKUNJ,
PHASE V, GURGAON - 122016 (HARYANA)

C.C.E. DELHI III Appellant

Vs

M/S SONA OKEGAWA PRECISIO FORGING LTD., Respondent

I am directed to transmit herewith a certified copy of **Final order No. 623 / 2011-SM[BR]** dated 1.9.2011 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 SONA OKEGAWA PRECISIO FORGING LTD.,
SONA ENCLAVE, NH-8,GURGAON

2. Adv. / Consult SHRI RAKESH BHOLA, ADV.
M/STAX POINT,899, SECTOR-17B,
URBAN ESTATE, GURGAON

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 (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/1572/09-SM &
CO Application No. E/CO/185/09

[Arising out of Order-in-Appeal No.69/ANS/GGN/2009 dated 12.3.2009 passed by the Commissioner of Central Excise (Appeals), Gurgaon].

CCE, Gurgaon ...Appellant

Vs.

M/s.Sona Okegawa Precision Forging Ltd. ... Respondent

Present for the Appellant : Mrs.R.Jagdev, SDR
Present for the Respondent: None

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

Date of Hearing/Decision:01.09.2011

Final **ORDER NO.** 623/2011 SM (BR) **DATED:**________

PER: D.N.PANDA

None present for the respondent. Ld. DR says that there is no difficulty to grant input credit if the nexus and relevancy test is satisfied. Claim of cenvat credit is not inherent right. Statutory right is to be exercised in accordance with law satisfying the statutory authority. When appellate order did not mention anything about satisfaction of requirement of law in respect of input credit such an order is unsustainable. She relies on the decision of Hon'ble High Court in the case of CCE, Nagpur vs. Ultratech Cement Ltd. reported in 2010 (260) E.L.T. 369 (Bom.)

2. Heard Revenue.

3. Perusal of appellate order throws light that the appellate authority has not at all brought out in clear terms what was controversy before him. He has only discussed on the case law and statutory provision and without any reason, allowed the appeal. It may be stated that reason being soul of justice, unreasoned order cannot sustain. Therefore, the unreasoned and non-speaking order has to be remanded to the appellate authority below to pass appropriate order in accordance with law. While passing the order he should not fail to take note of judgement relied upon by the Revenue as aforesaid and to grant fair opportunity of hearing to the respondent.

4. In the result, the impugned order is remanded. Since the appeal is decided as above, the cross objection is also disposed.

[Dictated & Pronounced in the open Court].

(D.N.PANDA)
JUDICIAL MEMBER

Anita