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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/2207/2009 – SM[BR] **Date 09/11/2011**

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 DROLIA ELECTROSTEELS P LTD Respondent

I am directed to transmit herewith a certified copy of **Final order No. 746 /2011- SM[BR]** dated 31.10.2011 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 DROLIA ELECTROSTEELS P LTD
UNIT-11,VILLAGE-
SILTARA(DHARSINWA) RAIPUR.

2. Adv. / Consult
MR.RAMESH NAIR
LAKSHMI VIHAR, AG- 192, SCHEME NO. 54, VIJAYNAGAR, INDORE(MP)

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 AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, COURT NO. III

Excise Appeal No. 2207 of 2009-SM

[Arising out of Order-in-Appeal No. 03(ST)/RPR-I/2009 dated 18.2.2009 passed by the Commissioner of Central Excise (Appeals), Raipur (CG)]

For approval and signature:

Hon'ble Ms. Archana Wadhwa, Member (Judicial)

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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?	:	Yes
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?	:	Yes

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Commissioner of Central Excise
Raipur — Appellants

Vs.

M/s. Drolia Electrosteels (P) Ltd. — Respondent

Appearance:

Shri Fateh Singh, DR for the Appellants
Shri Ramesh Nair & Shri Manish Saharan, Advocate for the Respondent

Date of Hearing/decision : 31.10.2011

Final **ORAL ORDER NO.** 746/2011 SM (Br)

Per Archana Wadhwa :

The only issue involved in the present appeal of the Revenue is as to whether the respondents are entitled to claim the Cenvat credit of Service Tax paid on the transportation services received by them for transporting their employees to their factory premises. Being aggrieved with the order of the Commissioner (Appeals), who has held in favour of the respondents, the Revenue has challenged the same on the ground that there is no nexus of transportation services with the business activity of the respondents.

2. Learned DR, Shri Fateh Singh appearing for the Revenue submits that if this trend of allowing of Cenvat credit in respect of all the services is continued, a stage would come when the Revenue will have to pay to the assessee from their own pocket (exact words used by learned SDR and insisted to be incorporated ~~with~~ in the order).

3. After hearing the learned Advocate for the respondents, I find that the issue is no more res integra and stands covered by the decision of the Hon'ble Punjab and Haryana High Court in the case of M/s. Federal Mogul Goetze (India) Ltd. [2011-TIOL-650-HC-P&H-ST]. The arguments of learned DR cannot be appreciated inasmuch as it is not the job of the Courts to go into the economics of the taxation and to arrive at a finding based upon the same. Legal interpretation of definition of 'input services' as appearing in Rule 2(1) of Cenvat Credit Rules, 2004 stands concluded by the Punjab & Haryana High Court in

the above referred judgement and the same is required to be followed by this Court. As such, I find no infirmity in the order of Commissioner (Appeals). The appeal of the Revenue being without merit, is accordingly rejected.

(Pronounced in the open Court)

(Archana Wadhwa)
Member(Judicial)

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