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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/1504/2007 – SM[BR] **Date 29/11/2011**

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

To :
C.C.E. RAIPUR
DHAMTARI ROAD, TIKRAPARA, RAIPUR.

C.C.E. RAIPUR Appellant
Vs
M/S TOPWORTH STEELS P LTD Respondent

I am directed to transmit herewith a certified copy of **Final order No. 819 / 2011-SM[BR]** dated 4.11.2011 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 TOPWORTH STEELS P LTD
BORAI INDUSTRIAL GROWTH CENTRE, PHASE I, POST-RASMADA, DURG(CG)
2. Adv. / Consult **SHRI L.P. ASTHANA ADV.**
R-163, SECOND FLOOR GREATER KAILASH PART-I,
NEW DELHI-48.
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)

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

Central Excise Appeal No. 1504 of 2007-SM

[Arising out of Order-in-Appeal No. 74/RPR-II/2007 dated 28.03.2007 passed by the Commissioner (Appeals), Customs & Central Excise, Raipur].

Date of Hearing: 4th November, 2011

For approval and signature:

Hon'ble Mrs. Archana Wadhwa, 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?	No
2	Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	No
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

CCE, Raipur — Appellant

Vs.

M/s. Topworth Steels Pvt. Ltd., — Respondent

Present for the Appellant : Mrs. R. Jagdav, SDR
Present for the Respondent : Ms. Neha Gulati, Advocate

Coram: Hon'ble Mrs. Archana Wadhwa, Member (J)

FINAL ORDER NO. 819 / 2011-SM(BR)

Per Archana Wadhwa:

Revenue filed this appeal against Order of the Commissioner (Appeals) whereby Cenvat Credit on input services namely, Courier service, and premium of insurance in respect of car were allowed. I have heard learned SDR Smt. R.

Jagdav appearing for the Revenue. Ms. Neha Gulati, learned Advocate appears for the Respondent.

2. Learned SDR on behalf of the Revenue submits that Courier services are not used directly or indirectly in the manufacturing process. He also submits that the respondents failed to produce documentary evidence to show the actual correspondence made by the respondents with their customers or suppliers. He also submits that cars for which insurance premium was paid were used for the personal purpose. He further submits that the Commissioner (Appeals) passed the order without verification of the evidences.

3. Learned Advocate on behalf of the respondents submits that it has been alleged in the show cause notice that credit taken on services such as General Insurance, Inward transportation of goods, Courier, etc. on the basis of such documents which are not in the name of the respondents. He submits that it is revealed from the order of the Commissioner (Appeals) that the respondents produced evidences which are duly verified. He further submits that this fact has not been disputed by the Revenue. He also submits that Cenvat credit on the input services namely, Courier service and insurance premium on car are eligible as held by the Tribunal in the following case:-

(1) CCE, Pune vs. I.J. Muthu Foods Pvt. Ltd. – 2009 (13) STR 37 (Tri. – Mumbai);

(2) Metro Shoes Pvt. Ltd. vs. CCE, Mumbai-I –

2008 (10) STR 382 (Tri. - Mumbai);

(3) Millipore India Ltd. vs. CCE, Bangalore –II – 2009 (236) ELT 145 (Tri. - Bang.);

(4) CCE, Hydrabad-IV vs. Deloitte Tax Services India P.Ltd. - 2008 (11) STR 266 (Tri. - Bangl.)

4. After hearing both sides and on perusal of the records, I find that the original authority denied the credit on the input service on the ground that these services were not used in or in relation to the manufacture of final product. Commissioner (Appeals) observed that these services are used in the business activity. I find that the Tribunal in the above cases held that Cenvat credit on input services namely, Courier service and insurance premium on vehicles cannot be denied. It is held that these services are related to activity of business. In this context, finding of the Tribunal in the case of Millipore India Ltd. (supra) as under:-

"On a very careful consideration of the issue, I find that CAS-4 has considered all the services such as medical benefit, subsidized food, education allowance, canteen bill, etc., to form part of the cost of final products. Therefore, I agree with the learned Chartered Accountant that these services which have been received have been rendered only in relation to the manufacture of the final products. The definition of 'input service' is very broad and on a proper appreciation of the same, the argument that even landscaping is in relation to manufacture of final product, is acceptable. This is so because, by virtue of the definition of 'input service e', even modernization, renovation, repair, etc., of the office premises are included. In that view of the matter, one can include even landscaping the surroundings of the factory as 'input service'. In these days, much importance is given to keeping the environment of a factory in a proper manner. In view of the above observations, I hold that the appellants are rightly entitled to the credit on the services in the impugned order. Hence, I allow the appeal with consequential relief."

5. Regarding the contention of the learned SDR that the respondents did not produce any evidence in support of the above services, I find that the Commissioner (Appeals) order is reproduced below:-

"It has been held by the lower authority that the documents on the basis of which credit has been availed on telephone service , consultation service etc. are not in the name of appellants. In this context, the lower authority was asked to forward all the 89 documents which are referred to in the Annexure to the show cause notice. As against this, the lower authority forwarded only 14 documents, of which then are those where the addresses mentioned in the telephone bills are of the appellants' city office. In respect of two the addreses mentioned are that of their Mumbai office and in respect of other two, the addresses are of their factory. On the other hand, the appellants have produced all 89 documents and on scrutiny of these it is verified that in respect of all, the addresses are those of their factory, their office at Bhilai and their office at Mumbai. Therefore, it is not understood as to how the lower authority came to the conclusion that the documents are not in the name of the appellants. Hence the benefit of this count has to accrue to the appellants."

6. In view of the above discussion, I do not find any justification to interfere in the order of the Commissioner (Appeals). Accordingly, appeal filed by the Revenue is rejected.

(Pronounced in the open Court)

(ARCHANA WADHWA)
JUDICIAL MEMBER

RK