

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/2889/2009 – SM[BR] E / STAY / 2976 / 2009 –SM[BR]

Date 05/01/2010

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

To :
M/S NATIONAL GENERAL INDL.LTD
9TH MILE STONE, GT ROAD, MOHAN
NAGAR,GHAZIABAD.
M/S NATIONAL GENERAL INDL.LTD

Appellant

Vs
Respondent

C.C.E. GHAZIABAD

I am directed to transmit herewith a certified copy of **Final order No.2 / 2010 –SM[BR]& S / 7 /2010** dated 31.12.2009 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. GHAZIABAD

C.G. O. COMPLEX-II, KAMLA NEHRU NAGAR, GHAZIABAD 201302

2. Adv. / Consult

MR.RAJESH CHHIBBER

FA/9, NEW KAVI NAGAR, GHAZIABAD

3 S.D.R

4 J.C.D.R.

5 Bar association, CESTAT, New Delhi

6 Director Publications, Customs, Excise. I.P. Estate, New Delhi

7 M/s Centax Publications Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi - 3

8 Commercial Laws of India Pvt Ltd. Post Bag No. 1033, No.2(Old No. 36), Vaithyaram Street, T. Nagar, Chennai -17

9 Raghuraman's 44-B, Regal Flat, Shipra Suncity, Indirapuram - 201010, Ghaziabad. DT. U.P.

10 M/s Manupatra Information Solutions Pvt Ltd. Excise & Customs Cases B-37, Sector - 1, Noida - 201301, Gautam Budh Nagar, (UP)

11 M/s. Deeparchie Publications, M-93, Marg. 46, Saket, New Delhi 110017

12 Taxindiaonline.com Pvt.Ltd, B-XI/8183, Vasant Kuni, New Delhi - 110070

13 Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh, New Delhi - 110026

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

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

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Assistant Registrar
(SM Appeal Branch)

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
COURT NO.II**

E/S 2976/09, E/Appeal No.2889/2009-SM(Br)

(Arising out of order in appeal No.183/CE/Gzb/2009 dated 28.7.09 passed by the Commissioner of Central Excise (Appeals), Ghaziabad)

M/s National General Industries Ltd

Appellant

Vs

CCE, Ghaziabad

Respondent

Appeared for Appellant : Shri Abhishek Jaju, Advocate

Appeared for Respondent : Shri V.K. Saxena, Jt CDR

Date of Hearing: 14.12.09

Coram: **Hon'ble Mr.D.N. Panda, Judicial Member**

Final Order No. *02/2010 SM(Br) +*
72009-

Per D.N. Panda: *S-07/2010 SM(Br)*

Shri Abishek Jaju, learned Counsel on behalf of learned Counsel Shri Rajesh Chhibber submits that demand of penalty in this appeal is Rs.5,000/- only. The amount being meagre, he prays that the stay may be granted.

2. Learned Joint CDR submits that although the amount of demand is small, infraction of law is patent from page 31 of the appeal folder bringing out the violation of provision to 4(2)(a) of Cenvat Credit Rules, 2004. The appellant without having credit on record has utilized paper credit for discharging its liability. So while 50% credit was admissible on capital goods, 100% claim was

made. When violation came to record, the appellant not only discharged the liability but also admitted its guilt.

3. Considering the gravity of the matter, although learned Counsel is absent, it is found that keeping of the matter pending shall serve no useful purpose of law when patent violation of law was made. Therefore, appeal and stay application are dismissed.

(Order dictated and pronounced in the open Court).

(D.N. Panda)
Judicial Member

MPS*