TELEGRAM : CEGCANAL
Website : www.cestat.gov.in

REGISTERED / AD
Email : delhi@cestat.gov.in

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
EXCISE APPEAL BRANCH

Appeal No. E/1810/2005 - EX[DB]

Date 12/04/2010

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

To :
C.C.E CHANDIGARH
C.R. BUILDING, SECTOR 17-C, CHANDIGARH

C.C.E CHANDIGARH — Appellant
Vs
M/S INDUSTRIAL CABLES LTD — Respondent

I am directed to transmit herewith a certified copy of **Final order No. 170/ 2010 EX[DB]** dated 09-4-10 passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(Excise Appeal Branch)

Copy to :
1. Respondent
   M/S INDUSTRIAL CABLES LTD
   INDUSTRIAL AREA, RAJPURA
2. Adv. / Consult
   MR.J.P.KAUSHIK
   A-14/3, SFS FLATS, SAKET, NEW DELHI-110017

3 C.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 Publictions 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 Kunj, 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 (Haryana)
16 Office Copy
17 Guard file

Assistant Registrar
(Excise Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

COURT NO. II

Excise Appeal No. 1810 of 2005-Ex.

(Arising out of Order-in-Appeal No. 68/CE/CHD/2005 dated 28.2.2005 passed by the Commissioner (Appeals), Central Excise, Chandigarh)

CCE, Chandigarh Appellant

Vs.

M/s Industrial Cables Ltd. Respondent

Date of Hearing: 31.3.2010

Appearance :

Appeared for Appellant - Shri R.K. Verma, SDR
Appeared for Respondent - Shri J.P. Kaushik, Advocate

CORAM: HON'BLE MR. D.N. PANDA, JUDICIAL MEMBER
HON'BLE MR. RAKESH KUMAR, TECHNICAL MEMBER

FINAL Order No. 170/2010 EX dated............

Per D.N. Panda:

Revenue has come in Appeal being aggrieved by the order of the ld. Commissioner (Appeals) on 28.2.2005 granting relief to the Respondent taking shelter of Notification No. 10/97-CE dated 1.3.97. Shri Verma, ld. DR for Revenue submits that notification envisages grant of an exemption to accessories and spare parts of goods used in scientific and technical instrument, apparatus, equipment (including computers) and consumables. According to Shri Verma when the appellant made supply of electric wires and cables which shall not be accessories and spares part of the scientific and technical instrument, apparatus, equipments (including computers), the Respondent was not entitled to any relief. Therefore his prayer is that certificate issued by the authority was not conclusive evidence for the purpose of Central Excise Act, 1944. Authorities under this Act are independent to examine the issue before them on the touchstone of law.

2. Shri Kaushik, learned Counsel on behalf of Respondent supports the order of ld. Appellate Authority. There is neither cross-objection nor cross appeal filed by the Respondent. Shri Kaushik submits that the authority below relied on the certificate of buying authority and also the decision made by the Tribunal in the case of **Andrew Yule & Co. Ltd. Vs. CCE** reported in 2004 (64) RLT 280 to pass appropriate order. He also relies on the judgement in the case of **Sanghvi Aerospace (P) Ltd. Vs. CCE** reported in 2009 (94) RLT 616.

3. Heard both sides extensively.

4. The fundamental point which has come for consideration is whether the appellate order without arriving at a finding as to the nature of the goods supplied can arrive at a decision in favour of the Respondent. There is also no examination of the goods as to those were whether accessories or spare parts of scientific and technical

instrument, apparatus and equipment (including computers). In absence of clear findings, the conclusion drawn by ld. Commissioner is abrupt and the order is unreasoned without being speaking on the matter in controversy. Such an order necessitates remand to re-determine the issue by a reasoned and speaking order. We make it clear that the order should speak about the goods in question supplied to the buying authority, the nature and description thereof, characteristic of the goods whether shall be called accessories or spare parts or consumables as the case may be and if so whether those were integrally connected with scientific and apparatus and equipment (including computers). According to his observation and findings the decision in appeal shall flow. Consequently, we set aside the first appellate order and remand the matter to the ld. Appellate authority to carry out the above directions and pass appropriate order grating fair opportunity of hearing to the respondent.

(Dictated & pronounced in open Court)

(D.N. PANDA)
JUDICIAL MEMBER

(RAKESH KUMAR)
TECHNICAL MEMBER

RM