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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

Date 23/09/2010

Appeal No. E/248 /2010 – SM[BR]&E/ STAY /250/2010-SM[BR]

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

To :
M/S MANGAL ELECTRICALS INDUSTRIES PVT. LTD.

C-61A, ROAD NO. 1C, V.K.I. AREA, JAIPUR.

Appellant

M/S MANGAL ELECTRICALS INDUSTRIES PVT. LTD.

Vs

Respondent

C.C.E. JAIPUR I

I am directed to transmit herewith a certified copy of **Final order** No.1037/2010-SM[BR]&S/455/2010 dated 13.9.2010 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. JAIPUR I

   N.C.R.BUILDING, STATUE CIRCLE, "C" SCHEME, JAIPUR 302005.

2. Adv. / Consult SHRI BIPIN GARG ADV.
   B-1/1289-A,VASANT KUNJ NEW DELHI

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 Publictions Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi - 3
8 Company Law Institute of India Pvt Ltd.,No.2(Old No. 36), Vaithyaram Street, T. Nagar,Chennai -17
9 M/s. Deeparchie Publications, M-93, Marg. 46, Saket, New Delhi 110017
10 Taxmann Allied Service Pvt Ltd., 59/32, New Rohtak Road, New Delhi - 110005
11 Easy Service Tax Online Dot Com Pvt.Ltd.407A.Iscon Mall.Above Star India Bazar.Satellite Road.Ahmedabad-15
12 LAWCRUX Advisors Pvt Ltd. LAW House.1-8.Sector - 10. Faridabad 121003 (Haryana)
13 TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor,Vasant Arcade,Nelson Mandela Road, Vasant Kunj, New Delhi - 110070
14 Office Copy
15 Guard file

Assistant Registrar
(SM Appeal Branch)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
West Block No.2, R. K. Puram, New Delhi
COURT-III

Date of hearing: **13.9.2010**

Excise Stay No. 250 of 2010-SM and Excise Appeal No. 248 of 2010-SM

[Arising out of Order-in-Appeal No. 363(DK)/CE/JPR-I/2009 dated 14.12.2009 passed by the Commissioner (Appeals), Central Excise, Jaipur]

For approval and signature:

Hon'ble Mr. M. Veeraiyan, Member (Technical)

1.	Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982.	Yes
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

M/s Mangal Electricals Industries Pvt. Ltd. Appellant

Vs.

CCE, Jaipur Respondent

Appearance:

Appeared for the Appellant - Ms. Sukriti Das, Advocate
Appeared for the Respondent - Shri R.K. Gupta, SDR

Coram: Hon'ble Mr. M. Veeraiyan, Member (Technical)

Final Order No. 1037/2010 SM (BR) & S-455/2010 SM (BR)

Per **M. Veeraiyan**:

Considering the nature of dispute, pre-deposit of interest of Rs.24,165/- is waived and the appeal itself is taken up for final disposal.

2. Both sides agree that the dispute as to whether interest is liable to be paid on differential duty paid by a manufacturer consequent to collection of differential value arising out of difference of prices is settled by the Hon'ble Supreme Court in the case of **CCE, Pune Vs. SKF India Ltd**. reported in 2009 (239) ELT 385, holding that the same is recoverable.

3. Ld. Advocate submits that the demand of interest relating to the period 31st March, 2006 to 11th August 2008 has been demanded by issue of Show Cause Notice dated 21st June 2009 and, therefore, substantial part of the same is time-barred. However, it is conceded that from the records itself it is not clear as to whether the period 31st March 2006 to 11th August 2008 relate to dates of original invoices or dates when the supplementary invoices were raised and differential duty paid.

4. In view of the above, the appeal is disposed of by holding that the interest is liable to be paid and remanding the matter to the original authority for considering the plea of time-bar after granting reasonable opportunity of hearing to the respondent.

5. Appeal is allowed by way of remand. Stay petition is also disposed off.

(Dictated & pronounced in open Court)

(M. VEERAIYAN)
MEMBER (TECHNICAL)

RM