

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/70 /2009 – SM [BR]

Date 28/09/2010

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

For :
M/S VISHAL PIPES LTD.
C-23, INDUSTRIAL AREA, SIKANDRABAD,
BULANDSHAHR (U.P.)

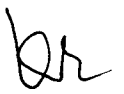
M/S VISHAL PIPES LTD.

Appellant

Vs
Respondent

C.C.E. NOIDA

I am directed to transmit herewith a certified copy of Final order No. 1093 / 2010 –SM[BR] dated 17.9.2010
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. NOIDA

C-56/42, SECTOR-62, NOIDA-201307

2. Adv. / Consult SHRI VISHAL AGARWAL , M.D.

M/S APPELLANTS:-----

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 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

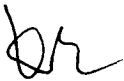
11 Easy Service Tax Online Dot Com Pvt.Ltd. 407A, Iscon Mall, Above Star India Bazar, Satellite Road, Ahmedabad-15

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

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
NEW DELHI
Court No.IV

E/Appeal No.70/2009-SM

(Arising out of order in appeal No. 120/CE/ApplNoida/08 dated 29.9.8
passed by the Commissioner (Appeals), Central Excise, Noida)

Date of Hearing: 17.9.2010

For approval and signature:

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

1. Whether Press Reporters may be allowed to see
Under 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?

No

M/s Vishal Pipes Ltd

Appellants

Vs

CCE, Noida

Respondent

Appeared for the Appellant: Shri Vishal Agarwal, M.D.
Appeared for the Respondent: Shri Anil Khanna, SDR

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

final ORDER - 1093/2010 SM (Bx)

Per M. Veeraiyan:

Heard both sides.

2. The appellants manufacture Galvanized Steel Pipes and in the
process items like Zinc Ash/Zinc Dross and skimmings emerge. The

Department treated the items like Zinc Ash/Zinc Dross and Skimmings as exempted products. On the ground that the appellants did not maintain separate accounts in respect of the inputs used in the manufacture of exempted products, invoking Rule 6(3) of Cenvat Credit Rules and they were directed to pay 8% to 10% of the value of Zinc Ash/Zinc Dross and Skimmings.

3. The learned Authorized Representative of the appellant company submits that the Tribunal in their own case relating to earlier period has decided the issue in their favour vide Final Order No. 275-278/2010 dated 23.4.2010 in Excise Appeal No.2477/09 (it also included appeals by other parties) holding that the impugned items are non-excisable and no amounts are payable in terms of Rule 6(3) of Cenvat Credit Rules.

4. The learned SDR fairly concedes that the present case is identical to the one decided by the Tribunal vide order dated 23.4.2010 and the demand in the present case relates to earlier period.

5. In view of the decision of the Tribunal in their own case cited supra, the order of the Commissioner (Appeals) is set aside. The appeal is allowed with consequential relief as per law.

(M. VEERAIYAN)
Technical Member

MPS*