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

Appeal No. E/1161/2010 - EX[DB] WITH E/S/1220/2010-EX
E/1189/2010-EX

Date 22/09/2010

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

To :
C.C.E. MEERUT I
EXCISE GHOWK,OPPOSITE CHOUDHARY CHARAN
SINGH UNIVERSITY MANGAL PANDAY NAGAR,
MEERUT - 250005.
C.C.E. MEERUT I — Appellant

Vs

M/S RANA CASTINGS LTD., — Respondent

STAY ORDER NO. 660/10-EX

I am directed to transmit herewith a certified copy of **Final order No. 648-49/ 2010 EX[DB]** dated 01-9-10 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 RANA CASTINGS LTD.,
   D-26-32, JASODHARPUR INDL. AREA, KOTDWAR.
2. Adv. / Consult SH. B.L. NARASIMHAN, ADV.
   B-6/10, S.J. ENCLAVE,
   N. DELHI - 29
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. 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
16. HON'BLE PRESIDENT.

Assistant Registrar
(Excise Appeal Branch)

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.
Principal Bench, New Delhi

COURT NO. I

DATE OF HEARING : 01/09/2010.
DATE OF DECISION : 01/09/2010.

Excise Stay Application No. 1220 of 2010 in appeal No. 1161 of 2010

CCE, Meerut – I — Appellants

Versus

M/s Rana Castings Ltd. — Respondent

Appearance

Shri Amrish Jain, Authorized Representative (DR) – for the Appellants.

S/Shri B.L. Narasimhan and R.K. Hasija, Advocates, – for the Respondent.

CORAM : **Hon'ble Shri Justice R.M.S. Khandeparkar, President**
Hon'ble Shri Rakesh Kumar, Member (Technical)

STAY Order No. 660/10-EX Dated :

Per. Shri Justice R.M.S. Khandeparkar :-

Since we proposed to dispose of the appeals themselves the applications are disposed of without insisting for pre-deposit while directing the Registry to place the appeals for final disposal forthwith.

(Justice R.M.S. Khandeparkar)
President

(Rakesh Kumar)
Member (Technical)

PK

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.
Principal Bench, New Delhi

COURT NO. I

DATE OF HEARING : 01/09/2010.
DATE OF DECISION : 01/09/2010.

Excise appeal No. 1161 of 2010

CCE, Meerut – I — Appellants

Versus

M/s Rana Castings Ltd. — Respondent

Excise appeal No. 1189 of 2010

M/s Rana Castings Ltd. — Appellants

Versus

CCE, Meerut – I — Respondent

[Arising out of the Order-in-Appeal No. 183/CE/MRT-I/2010 dated 29/01/2010 passed by The Commissioner (Appeals), Customs & Central Excise, Meerut.]

For Approval and signature :

Hon'ble Shri Justice R.M.S. Khandeparkar, President
Hon'ble Shri Rakesh Kumar, 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 would 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 Department Authorities? : Y

Appearance

Shri Amrish Jain, Authorized Representative (DR) - for the Appellants.

S/Shri B.L. Narasimhan and R.K. Hasija, Advocates - for the Respondent.

CORAM : **Hon'ble Shri Justice R.M.S. Khandeparkar, President**
Hon'ble Shri Rakesh Kumar, Member (Technical)

FINAL Order No. 648-649/10-EX Dated : ____________

Per. Shri Justice R.M.S. Khandeparkar :-

As far as the appeal by the Department is concerned, it relates to the point that the Commissioner (Appeals) had no jurisdiction to remand the matter and the dispute ought to have been decided by the Commissioner himself, by applying the law laid down by the Apex Court in the matter of **Amrit Agro Industries Ltd. vs. CCE, Ghaziabad** reported in **2009 (210) E.L.T. 183**.

2. In assessees appeal, it is the contention of the assessee that the main dispute between the parties related to the claim of the assessee for exemption benefit under Notification No. 50/03-CE dated 1st June 2003 and the said dispute in relation the period 1997-1998 has already been decided in favour of the appellant in appeal No. 495 to 500 and 801 to 806 of 2007, wherein the appellants appeal was 495 of 2007 decided on 26th March 2010 and in fact entire controversy comes to an end with the said

decision, except that the formal order in that regard is necessary in relation to the subsequent period, which would cover the relevant period referred to in the matter in hand.

3. The fact that the main issue between the parties related to the claim of the assessee for exemption benefit under Notification No. 50/03-CE dated 1st June 2003 is not in dispute. Undisputedly for the previous period, the said issue has already answered by the Tribunal in favour of the assessee. Undoubtedly in relation to the subsequent period by ascertaining whether there is any change in the factual scenario or not an appropriate order, bearing in mind the said decision of the Tribunal, has to be passed by the Adjudicating Authority.

4. At the same time, it cannot be disputed that the Commissioner (Appeals) does not have power to remand the matter and in case he finds the order of the original authority to be unsustainable, the Commissioner (Appeals) has to reassess the materials on record and pass the appropriate order by himself. The law in this regard is well settled.

5. In the circumstances, while allowing both the appeals, the impugned order alongwith the order of the adjudicating authority, both the orders are set aside and the matter is remanded to the Adjudicating Authority to pass an appropriate order after hearing the parties bearing in mind the order of the Tribunal in appeal

No. 495 of 2007 delivered on 26th March 2010, and in accordance with provisions of law. Appeals accordingly stand disposed of.

(Justice R.M.S. Khandeparkar)
President

(Rakesh Kumar)
Member (Technical)

PK