

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

Appeal No. * E/S/716/10,E/693 /2010 - EX[DB] E/COD/270/2010-EX(DB)

Date 01/12/2010

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

To :
M/S S.K.S. ISPAT & POWER LIMITED,
SILTARA INDUSTRIAL AREA, DISTRICT RAIPUR
(CHHATTISGARH)
M/S S.K.S. ISPAT & POWER LIMITED,

Appellant

Vs

Respondent

C.C.E. RAIPUR

Stay order No. 896

2010 EX[DB] dated 25.11.2010

I am directed to transmit herewith a certified copy of **Final order No. 806**
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944

Copy to :

1. Respondent

C.C.E. RAIPUR

CENTRAL EXCISE BUILDING, DHAMTARI ROAD,
TIKRAPARA, RAIPUR 492001.

2. Adv. / Consult

MR.B.L. NARASIMHAN, ADV.

B-6/10, SAFDARJUNG ENCLAVE, NEW DELHI-110029

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

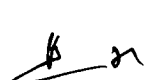
12 LAWCRUX Advisors Pvt Ltd, LAW House,1-8.Sector - 10, Faridabad 121003 (Harvana)

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
(Excise Appeal Branch)


Assistant Registrar
(Excise Appeal Branch)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI
Court No.IV

E/Stay No.716/10, E/Appeal No.693/10-Ex(Br)
E/CO/130/10, /E/COD/270/10

(Arising out of order in original No. Comm/RPR/80/09 dated 22.12.09
passed by the Commissioner of Central Excise, Raipur)

Date of Hearing: 22.11.2010

For approval and signature:

Hon'ble Dr. C. Satapathy, Member (Technical)
Hon'ble Shri D.N. Panda, Member (Judicial)

1. Whether Press Reporters may be allowed to see CESTAT (Procedure) Rules, 1982? YS
 2. Whether it should be released under Rule 27 of the CESTAT(Procedure) Rules, 1982 for publication in any authoritative report or not ? YS
 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
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M/s S.K. Ispat & Power Ltd

Appellants

Vs

CCE, Raipur

Respondent

Appeared for the Appellant: Shri B.L. Narasimhan, Advocate
Appeared for the Respondent: Ms. A. Monika Batra, SDR

Coram: **Hon'ble Dr. C. Satapathy, Member(Technical)**
Hon'ble Shri D.N. Panda, Member (Judicial)

STAY ORDER 896 / 10-EX
FINAL ORDER No. 806 / 10-EX

Per Dr. C. Satapathy:

Heard both sides.

2. Shri B.L.Narasimhan, learned Counsel appearing for the appellants states that the case involves use of common inputs for both

dutiable and exempted final products and hence the case is covered by the retrospective amendment made to the Finance Act, 2010. He further states that as per the provision of said Finance Act, 2010, the appellants have filed an application before the jurisdictional Commissioner exercising option to reverse the proportionate cenvat credit amount relating to inputs used in the exempted final product. He therefore, requests that the appeal may be remanded to the jurisdictional Commissioner for passing a fresh order in this case.

3. Heard the learned DR who has no objection to such a course of action as suggested by the learned Advocate.

4. In view of the submissions made and taking into account the retrospective amendment made by the Finance Act, 2010, we waive the requirement of pre-deposit, set aside the impugned order and remand the appeal for fresh decision by the jurisdictional Commissioner in the light of the retrospective amendment. The appeal is thus allowed by remand.

5. In view of our allowing the appeal by way of remand, the Cross Objection filed by the Department and the Misc Application for condonation of delay in filing the Cross objection are dismissed.

(Dr. C.SATAPATHY)
Technical Member

(D.N.PANDA)
Judicial Member

MPS*