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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/692 /2005 - EX[DB] Date 12/05/2010

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

To :
C.C.E.CHANDIGARH
C.R.BUILDING PLOT NO-19,SECTOR 17-
C,CHANDIGARH
C.C.E.CHANDIGARH Appellant

Vs

M/S JAGAN TUBES LTD. Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 328/ 2010 **EX[DB]** dated 06-5-10 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 JAGAN TUBES LTD.
   VILL GHOLUMAJRA DERABASSI DISTT PATIALA
2. Adv. / Consult SH. KAMAL JEET SINGH, ADV.,
   J-144, PATAL NAGAR,
   GHAZIABAD
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. Office Copy
14. Guard file
15. HON'BLE PRESIDENT.

Assistant Registrar
(Excise Appeal Branch)

16. Tax India Online.Com (P) Ltd.
    Unit No.1, 2nd Floor, Vasant Aracade, Nelson Mandela Road,
    Vasant Kunj, New Delhi-70

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST BLOCK NO.II, R.K. PURAM, NEW DELHI-110066.
BENCH-DB

PRINCIPAL BENCH - COURT NO. I

Excise Appeal No. E/692/05-Ex

[Arising out of Order-in-Appeal No. 720/CE/CHD/04 dated 18.11.2004 passed by the Commissioner (Appeals), Chandigarh].

For approval and signature:

Hon'ble Mr. Justice R.M.S. Khandeparkar, President
Hon'ble Mr.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 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

Commissioner of Central Excise, Chandigarh ...Appellants

Vs.

M/s. Jagan Tubes Ltd., Patiala ... Respondent

Present for the Appellants : Shri.A. Khanna, DR
Present for the Respondent : Shri Kamaljeet Singh, Advocate

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

Date of Hearing/Decision:06.05.2010

FINAL **ORAL ORDER NO.** 328/10-EX **DATED:06.05.2010**

PER: JUSTICE R.M.S.KHANDEPARKAR

Heard the ld. DR for the appellant and ld. Advocate for the respondents.

2. The respondents are engaged in the manufacture of iron and steel tubes classifiable under Chapter heading 73 of schedule to the Central Excise Tariff Act, 1985. It is a case of the appellant that the respondents were found having wrongly availed Modvat Credit amounting to Rs.18,45,225/- on the basis of void invoices issued by M/s. Majestic Industries, Ludhiana without physically delivering the goods described under the said invoices.

3. Undisputedly, 8 other matters arising out of the issuance of invoices stated to have been unaccompanied by the goods in terms of the description in the invoices and issued by M/s. Majestic Industries Ltd. when came up before the Tribunal, having noticed that the Commissioner (Appeals) having not analysed all the materials on record in proper perspective have been remanded for reconsideration under Final Oder No.913-920/08- EX (PB) dated 24th November, 2008 in appeal numbers E/4841-4848/2004 alongwith Cross Objections filed therein.

4. Perusal of the impugned order also apparently discloses that the Commissioner (Appeals) without appreciating the point involved in the matter and without proper consideration of all the materials on record in proper perspective has disposed of the matter under the impugned order. The order in question, nowhere discloses consideration of various materials placed on record by the parties in support of rival contentions.

5. As already pointed out by the Tribunal in the said order dated 24th November, 2008 the Commissioner (Appeals) is required to formulate the questions which are required to be considered and with reference to those questions, analyse all the materials on record and should come to proper finding on the basis of such analysis.

6. For the reasons stated above, therefore, as well as those stated in order dated 24th November, 2008, the impugned order is set aside and matter is remanded to the Commissioner (Appeals) to decide the same alongwith the matters which were remanded under the order dated 24th November, 2008. Appeal is accordingly, disposed of in the above terms.

(JUSTICE R.M.S.KHANDEPARKAR)
PRESIDENT

(RAKESH KUMAR)
MEMBER (TECHNICAL)

Anita