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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

Date 14/07/2010

Appeal No. E/704 /2006 - EX[DB] WITH E/240/2006
E/1018/2006-EX WITH E/CO/224/2006

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

To :
CCE,INDORE.

CCE P.B. NO.10 MANIK BAGH PALACE ,INDORE.

CCE,INDORE. Appellant

Vs

R.K. ROLLING MILLS,GWALIOR. Respondent

I am directed to transmit herewith a certified copy of **Final order** No. 445-446 2010 EX[DB] dated 06-7-10 passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(Excise Appeal Branch)

Copy to :

1. Respondent

   R.K. ROLLING MILLS,GWALIOR.

   5-A MAHARAJPURA INDL AREA,GWALIOR.

2. Adv. / Consult SH. ALOK KOTHARI, A-92, MANISH MARG, NEMI NAGAR, GANDHI PATH VAISHALI NAGAR, JAIPUR
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.
17. M/S. METAL INNOVATORS ROLLING DIV., INDL. AREA, AGAR ROAD UJJAIN

Assistant Registrar
(Excise Appeal Branch)

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

Date of hearing/decision: 06.07.2010

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 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?	No
4	Whether Order is to be circulated to the Departmental authorities?	Yes

Excise Appeal No. 704 of 2006 alongwith E/CO No.240 of 2006

[Arising out of Order-in-Appeal No. IND-I/509/2005 dated 28.12.2005 passed by the Commissioner (Appeals), Customs & Central Excise, Indore].

CCE, Indore Appellants

Vs.

M/s R.K. Rolling Mills Respondent

AND

Excise Appeal No. 1018 of 2006 alongwith E/CO No. 224 of 2006

[Arising out of Order-in-Appeal No. IND-I/496/2005 dated 26.12.2005 passed by the Commissioner (Appeals), Customs & Central Excise, Indore].

CCE, Indore Appellants

Vs.

M/s Metal Innovators Rolling Division Respondent

Appearance: Rep. by Shri B.L. Soni, DR for the appellants.
None for the respondent.

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

FINAL Oral Order No. 445-446/10-Ex

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

Heard the learned DR for the appellants. None for the respondent.

2. The issue involved in both these matters being the common they are taken up for hearing together and are being disposed of by this common order.

3. In both these matters the controversy related to the entitlement of the respondent to claim the benefit of the exemption under Notification No.6/2002-CE dated 1.3.2002.

4. Similar issue in relation to the notification for the earlier period being Notification No. 3/2001-CE dated 1.3.2001 had come up for consideration before the Apex Court in **Commissioner of C. Ex. Jaipur** vs. **Mewar Bartan Nirman Udyog** reported in 2008 (231) ELT 27 (SC). The Apex Court therein dismissed the appeal filed by the Department against the order passed by the Tribunal holding that the respondents were entitled to claim the benefit under the said notification.

5. The facts of the case are similar to those of the said case in **Mewar Bartan Nirmal Udyog** case and therefore, the matters are fully covered by the decision of the Apex Court in the said case. Considering the same, there is no case for interference in the impugned order as the impugned order confers the claim of the respondent to claim the benefit under the said notification. In this view of the matter, the appeals fail and are hereby dismissed.

[Justice R.M.S. Khandeparkar]
President

[Rakesh Kumar]
Member [Technical]

/Pant/