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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/531 /2009 – SM[BR] Date 08/11/2010

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 160017
C.C.E. CHANDIGARH Appellant
Vs
M/S GIAN STEEL ROLLING MILLS , Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 1160 /2010-SM[BR] dated 19.10.2010 passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent
   M/S GIAN STEEL ROLLING MILLS ,
   G.T.ROAD, SIRHIND SIDE, MANDI GOBINDGARH.
2. Adv. / Consult SHRI KAMALJEET SINGH ADV.
   M/S RESPONDENT:------------------

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 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

Assistant Registrar
(SM Appeal Branch)

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, COURT NO. IV

Excise Appeal No. 531 of 2009-SM(BR)

[Arising out of Order-in-Appeal No. 607/CE/CHD/2008 dated 12.12.2008 passed by the Commissioner of Central Excise (Appeals), Chandigarh.]

For approval and signature:

Hon'ble Mr. Ashok Jindal, Member (Judicial)

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1. Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982? :
2. Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not? :
3. Whether Their Lordships wish to see the fair copy of the Order? :
4. Whether Order is to be circulated to the Departmental authorities? :

Commissioner of Central Excise Chandigarh — Appellants

Vs.

M/s. Gian Steel Rolling Mills — Respondent

Appearance:
Shri Anil Khanna, SDR for the Appellants
Shri Kamaljeet Singh, Advocate for the Respondent

Date of Hearing/decision : 19.10.2010

Final **ORAL ORDER NO. 1160/2010 SM(BR)**

Per Ashok Jindal:

Revenue has filed this appeal against the impugned order wherein Cenvat credit taken by the respondents on TMT bars, angles, channels, bar, HR Plates, Cobble plates, rounds, squares, defective rails, shapes and sections, and joists were allowed as inputs to be used in the capital goods. The learned DR submitted that the Larger Bench of this Tribunal has held in the case of Vandana Global Ltd. reported as 2010 (253) ELT 440 (Tri-LB) that the credit on the above said items is not admissible as they does not fall under the definition of capital goods as Rule 2(a) of the Cenvat Credit Rules, 2004.

2. On the other hand, learned Advocate for the respondent submits that in the case of Vandana Global Ltd., this Tribunal has held that when the above said items are used in the fabrication of supporting structures, then Cenvat credit is not allowed but if these items are used for fabrication of plant and machinery, they can be allowed as inputs for capital goods.

3. Heard both sides. Considering the submissions made by both the sides, I find that in the impugned order, it is not clear that for what purpose these items were used by the respondents in their factory. Hence, the matter needs examination by the adjudicating authority in the light of the decision in the case of Vandana Global. Hence, the matter is remanded back to the adjudicating authority to examine the issue ~~in the light~~ of use of the above said items in the light of decision in the case of Vandana Global (supra) after

giving reasonable opportunity of hearing to the respondent to present their case. With these observations after setting aside the impugned order, the appeal is allowed by way of remand.

(Ashok Jindal)
Member(Judicial)

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