

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/460 /2009 – SM[BR]

Date 08/11/2010

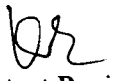
Assistant Registrar
C.E.S.T.A.T, New Delhi

To :
C.C.E. NOIDA
C-56/42, SECTOR-62, NOIDA-201307
C.C.E. NOIDA

M/S OZLA PLASTOCRAFT,

Appellant
Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No. 1162 / 2010 –SM[BR] dated 11.10.2010
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 OZLA PLASTOCRAFT,

B-26, HOSIERY COMPLEX, PHASE-II, NOIDA.

2. Adv. / Consult

NONE:-----

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

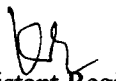
11 Easy Service Tax Online Dot Com Pvt.Ltd.407A.Iscon Mall.Above Star India Bazar.Satellite Road.Ahmedabad-15

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

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Assistant Registrar
(SM Appeal Branch)

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

E/Appeal No. 460/2009-SM

(Arising out of order in appeal No.140/CE/Apl/Noida/2008 dated 26.11.2008 passed by the Commissioner of Central Excise (Appeals), Noida)

Date of Hearing: 11.10.2010

For approval and signature:

Hon'ble Shri Ashok Jindal, Member (Judicial)

1. Whether Press Reporters may be allowed to see 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?

CCE, Noida

Appellants

Vs

M/s Ozla Plastocraft

Respondent

Appeared for the Appellant: Shri S.K. Bhaskar, DR
Appeared for the Respondent: None

Coram: **Hon'ble Shri Ashok Jindal ,Member (Judicial)**

final ORDER 1162 / 2010 SM (BY)
Per Ashok Jindal:

Revenue has filed this appeal against the order in which the lower appellate authority has allowed input credit on Plastic crates which are used by the respondent in transporting of their raw

materials and finished goods from one place to another place in their factory premises.

2. The learned DR submits that as these plastic crates are not being used in the manufacture of final product, hence the credit taken on these plastic crates is not available to the respondent.

3. Heard. The issue in this case is that whether the assessee is entitled to take credit or not on plastic crates which are being used by the assessee for transporting of inputs or finished products from one place to another place. As the issue has been finally settled by the Larger Bench of this Tribunal in the case of Banco Products (India) Ltd Vs CCE Vadodara reported in 2009 (235) ELT 636 where the Larger Bench of this Tribunal has held that the modvat credit is available on plastic crates used as material handling device within the factory premises as capital goods as also inputs. Accordingly, the issue has already been settled by the Larger Bench of this Tribunal. The appeal filed by the Revenue deserves no merit, hence rejected.

(ASHOK JINDAL)
Judicial Member

MPS*