

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

Appeal No. ST/198 /2010 – SM[BR]

Date 06/07/2010

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

To :
M/S M.L.AGARWAL STEEL & ALLOYS PVT. LTD.
VILLAGE-NAVA NAGAR, 18TH KM, LGLAS ROAD,
ALIGARH (U.P.)
M/S M.L.AGARWAL STEEL & ALLOYS PVT. LTD.

Appellant

Vs

Respondent

C.C.E. LUCKNOW

I am directed to transmit herewith a certified copy of **Final order No. 687 / 2010 –SM[BR]** dated 25.6.2010
passed by the Tribunal under Section 129, (B) of the Customs Act, 1962 & Financial Act 1994 relating to Service Tax

Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent

C.C.E. LUCKNOW

7-A, ASHOK MARG, LUCKNOW.

2. Adv. / Consult

MR.RAJ KUMAR CA, FCA,

U-18, PAWAN PLACE, SAMAD ROAD, ALIGARH

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 (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)

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

Date of Hearing/Decision: 17.06.2010

Service Tax Appeal No. ST/198/10-SM

[Arising out of Order-in-Appeal No. 203-ST/LKO/2009 dated 17.11.2009 passed by the Commissioner (Appeals)].

M/s. M.L. Agarwal Steels & Alloys (P) Ltd. ...Appellant

Vs.

The Commissioner of Central Excise, Lucknow ... Respondent

Present for the Appellant : Shri. Raj Kumar, C.A.
Present for the Respondent: Shri. S.K. Bhaskar, DR

Coram: HON'BLE MR. DN. PANDA, JUDICIAL MEMBER

Final ORDER NO. 687/2010 SM (Br) DATED: 17.06.2010

PER: D.N. PANDA

Ld. Chartered Accountant agrees that he shall submit relevant evidence in support of the certificate issued by M/s. United Transport on 10.7.09 depicting description about nine evidence showing payment of Service Tax by transporter. Once it is established that the relevant tax amount in respect of transaction made between the appellant and the transporter, there should not be double taxation against the appellant. Such an aspect has also been appreciated while passing Stay Order.

2. Ld. DR submits that when the appellant came to produce the evidence before the authorities below, he suffered adjudication. Therefore, if the appellant relies on certain evidence, there is no difficulty for them to place before the Id. Adjudicating authority for scrutiny. Depending on the outcome of the scrutiny, the authority can pass order.

3. For the suggestion made by both sides as above, it is proper to send the matter back to the Id. Adjudicating authority to examine relevant evidence relied upon by the appellant as aforesaid and consider the claim of the appellant. If the authorities satisfied that the relevant tax element has been covered by the evidence which had ^{been} relied upon by the appellant to the extent as indicated above, there should not be double taxation. Once there is no tax element, other consequence whether shall follow, can be decided by a reasoned and speaking order. Consequently, appeal is disposed, remanding the matter to the Id. Adjudicating Authority.

[Dictated & Pronounced in the open Court].

(D.N.PANDA)
JUDICIAL MEMBER

Anita