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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/850 /2008 – SM[BR] Date 19/07/2010

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

To :
C.C.E. RAIPUR

CENTRAL EXCISE BUILDING, DHAMTARI ROAD,
TIKRAPARA, RAIPUR 492001.
C.C.E. RAIPUR Appellant

Vs

M/S SAINI RE-ROLLING LTD. Respondent

I am directed to transmit herewith a certified copy of **Final order No**. 762 / 2010-SM[BR] dated 14.7.2010 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 SAINI RE-ROLLING LTD.

CYCLE PARK, PHASE-II,SILTARA INDUSTRIAL AREA,RAIPUR (C.G.)

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 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)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

West Block No.2, R.K.Puram, New Delhi

COURT-III

SINGLE MEMBER BENCH

Date of hearing/decision: 14.7.2010

Central Excise Appeal No.850 of 2008-SM

Arising out of the order in appeal No.05/RPR-I/2007 dated 28.1.2008 passed by the Commissioner (Appeals I), Central Excise, Raipu.

For Approval and Signature:

Hon'ble Shri M. Veeraiyan, Technical Member

1	Whether Press Reporter 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 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

C.C.E. & Cus., Raipur (C.G.) .... Appellant

Vs.

M/s Saini Re-Rolling Ltd. .... Respondent

Appearance:

Shri M.K. Rastogi, Authorised Departmental Representative (SDR) for the Revenue and none for the respondents

Coram: Hon'ble Shri M. Veeraiyan, Technical Member

Final Oral Order No. 762/2010 SM (Br)

Per M. Veeraiyan:

This is an appeal by the Department against the order of the Commissioner (Appeals) No. 05/RPR-I/2007 dated 28.1.2008, by which the order of the original authority confirming the demand of Rs.48,797/- along with interest and imposing penalty of equal amount was set aside.

2. Heard the learned SDR. None appears for the respondent in spite of notice. On earlier occasion also, none appeared for the respondents.

3. The dispute relates to credit taken on M.S. Channels, M.S. angle, bars and rods as capital goods. Learned SDR submits that the issue is decided in favour of the Department by the Larger Bench of the Tribunal in the case of Vandana Global Ltd. vs. C.C.E., Raipur reported in 2010 (253) ELT 440. He seeks setting aside the order of the Commissioner (Appeals) and restoring the order of the original authority.

4. I have carefully considered the submissions and perused the records. The Commissioner (Appeals) has allowed the appeal both on merit and on limitation. It is noticed that the dispute relating to eligibility of credit on the impugned items were subject to different decisions of the Tribunal. Under these circumstances, the respondents cannot be faulted with if they believed that they were eligible for the credit. There has been no finding of any suppression of facts which the respondents were required to furnish. Under the circumstances, the demand raised by a notice dated 26.7.07 relating to the period August, 2005 to January, 2006 is clearly time barred.

5. While the Department succeeds on merit, the order of the Commissioner (Appeals) need not be interfered with as the demand is clearly time barred.

6. The appeal is disposed off.

(M. Veeraiyan)
Technical Member

scd/