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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/1066/2010 – SM[BR] E / STAY / 1124 / 2010-SM[BR]   Date 19/08/2010

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

To :
M/S. COREFAB PROJECTS PVT. LTD.
10-B, HEAVY INDUSTRIAL AREA, BHILAI (CG)

M/S. COREFAB PROJECTS PVT. LTD. — Appellant

Vs

C.C.E. RAIPUR — Respondent

I am directed to transmit herewith a certified copy of **Final order** No. 899/2010-SM[BR]&S / 344/2010 dated 10.8.2010 passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent
   C.C.E. RAIPUR
   CENTRAL EXCISE BUILDING, DHAMTARI ROAD, TIKRAPARA, RAIPUR 492001.
2. Adv. / Consult
   MR.SUSHIL KUMAR,CA
   C-1-A-51, SURYA VIHAR, JUNWANI, BHILAI (CG)
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 No. II

E/STAY NO. 1124 OF 2010-SM IN AND
CENTRAL EXCISE APPEAL NO. 1066 OF 2010-SM

[Arising out of Order-in-Appeal No. 19/RPR-II/2009 dated 1.12.2009 passed by the Commissioner (Appeals), Central Excise & Customs, Raipur]

M/s. Corefab Projects Pvt. Ltd., Appellant
None

Versus

CCE, Raipur Respondent
Reptd. by Shri I. Baig, SDR

Date of Hearing/decision: 9th August, 2010

Coram: Hon'ble Shri D.N. Panda, Judicial Member

FINAL ORDER NO. 899/2010 SM(BR) & S-344/2010 SM (BR) **DATED**

Per D.N. Panda:

None present for the appellant. Appeal was filed on 4th March, 2010 against appellate order passed on 1.12.2009. Along with appeal the appellant has also moved stay application for stay of realization of demand of Rs. 2,14,478/- followed by penalty of Rs. 2,500/- along with interest. The demand arose in view of disallowance of Cenvat credit on parts viz. Angle, Channel, Beams etc. fall under Chapter 72 of the Central Excise Tariff Act, 1985, which are not entitled to Cenvat credit.

2. The case of the appellant is that these items were used for the purpose of manufacture of structurals. But the audit finding revealed that those items were not entitled to the benefit.

3. Although the appellant is not present, there is also no application for adjournment.

4. Learned D.R. submits that this Tribunal has decided the present issue in the case of Vandana Global Ltd. vs. CCE, Raipur, reported in 2010 (253) ELT 440 (Tri.- LB). Learned adjudicating authority can appropriately adjudicate the matter in accordance with guidelines given in that decision. Therefore, it would be proper to remand the matter to the adjudicating authority to decide the issue in accordance with law instead of keeping the matter pending here.

5. Heard learned D.R. He is very correct to say that the demand arose under a confusion. There is no doubt that the issue is covered by the decision of the Larger Bench of the Tribunal in the case of Vandana Global (supra). There is also a decision of Hon'ble Supreme Court in the case of CCE, Jaipur vs. Rajasthan Spg. & Wvg. Mills Ltd., reported in 2010 (255) ELT 481 (SC) on a similar set of issue. Therefore, dispensing with pre-deposit, the matter is remanded to the learned Adjudicating authority to decide the issue afresh granting fair opportunity of hearing to the appellant and in the light of above two judgments and passing a reasoned and speaking order within 3 months

of receipt of this order. In the result, stay application as well as appeal are disposed off.

(Dictated & pronounced in the Open Court.)

(D.N. PANDA)
JUDICIAL MEMBER

RK