

M : CEGCANAL

REGISTERED/A.D

THE CUSTOMS, EXCISE & GOLD (CONTROL) APPELLATE TRIBUNAL,

West Block No. 2, R.K. Puram, New Delhi - 110066.

BENCH - NB(SM)

Appeal No. E/2120/00/NB(SM)

Dated : 12/2/2001

CEGAT  
NEW DELHI  
To,

Commissioner, Central Excise  
Commissionerate - 2  
Chandigarh

In the matter of :

CCE Chandigarh

Appellant

vs.

M/s Steel Strips

Respondent

I am directed to transmit herewith a certified copy of Final Order No. A/180/01/NB(SM)  
Dated : 11/1/2001 passed by the Tribunal under Section 35-C(1) of Central Excise  
& Salt Act, 1944/Section 129 (B) of the Customs, Act, 1962.

Copy to :

Asstt. Registrar - NB(SM)

1. M/s Steel Strips Ltd  
Dhaura Kuan,  
Paonta Sahib (HP)
2. CCE / CC / (Appeal)
3. Chief Commissioner of Central Excise / Customs.
4. Adv. / Consult. Sh K K Anand, Adv  
A-5, Basement, Lajpat Nagar-III  
New Delhi - 110024.
5. S.D.R. - NB(SM)
6. JCDR
7. Bar Association, CEGAT, New Delhi
8. Library, CEGAT, New Delhi
9. Director (Review), C.B.E.C. North Block, New Delhi
10. Guard File.
11. M/s Deeparchic Publications, M-93, Marg-46, Saket, New Delhi.
12. M/s Centax Publications (P) Ltd., 1512-E, Bhisim Pitamah Marg, opp. Sachdeva P.T. College of  
Defence Colony, New Delhi-110003
13. M/s Lex Site Com. Ltd., Mumbai
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Asstt. Registrar  
NB(SM)

(Final Order Sheet)

**In the Custom, Excise & Gold (Control) Appellate Tribunal  
New Delhi**

APPEAL NO...E/2120/2000-NB OF SM (.....)

ARISING OUT OF ORDER IN ORIGINAL/APPEAL NO.

2049-2052/CE/CHD/99 ..... DATED 30.11.99

PASSED BY... the Commissioner (Appeals) .....

Central Excise, Chandigarh .....

Date of decision..... 11.1.2001 .....

.....Commissioner of Central Excise, Chandigarh APPELLANT (S)

Represented by Sh./Smt...M.D. Singh, SDR .....

**VERSUS**

.....Steel Strips .....RESPONDENT (S)

Represented by Sh./Smt...K.K. Anand, Advocate .....

CORAM :

.....Shri P.S. Bajaj .....

.....Member (Judicial) .....

.....

To be referred to the Reporter or not ?

FINAL ORDER NO...A/1801/01/NB (e/m)

Per..... P.S. Bajaj .....

In this appeal filed by the Revenue against the impugned order in appeal dated 30.11.99, the issue relates to the availability of modvat credit on ramming mass. The respondents claimed the modvat credit of Rs.18551/- on this

item but Assistant Commissioner disallowed the same through impugned Order-in-Original dated 30.11.98 on the ground that the Revenue Appeal No. 2128/97 against Tribunal's earlier order dated 8.9.94 allowing the modvat credit on ramming mass, had been admitted by the Apex Court. But the Commissioner (Appeals) disagreed with this ground of the Assistant Commissioner by observing that mere admission of the appeal did not nullify the Tribunal's order, specially when operation of the order had not been stayed by the Apex Court. He had allowed the modvat credit to the respondents by following the law laid down by the Tribunal in Kalyani Steel vs. CCE Pune [1998 (98) ELT 284].

2. The Revenue has come up in appeal before the Tribunal.

3. It has been disputed before me that the issue regarding the entitlement of modvat credit on ramming mass, stands settled by the decision of the Tribunal in "Kalyani Steel Ltd." case (supra) which had been even relied upon by the Commissioner (Appeals) in the impugned order. In that case it has been observed that the modvat credit is permissible on the ramming mass to the assessee. Even the respondents had been for the earlier period allowed the modvat credit, in their own earlier case on ramming mass, by the Tribunal,

reported in [1999 (32) RLT 299] "CCE Chandigarh vs. Steel Strips" . Therefore, there exists no cogent reason to disallow the modvat credit for subsequent period for the same item for which they had been earlier allowed.

4. No doubt, the Revenue had already challenged the decision of the Tribunal passed in Appeal No. A/808/94-NB dated 8.9.94 before the Apex Court but the operation of that order had not been stayed, only the appeal of the Revenue had been admitted. Mere admission of the appeal by the Apex Court did not automatically result in ~~the~~ staying the operation of the order of the Tribunal. The order of the Tribunal still holds the field till its altered or reversed by the Apex Court. Moreover, as observed above the respondents for the earlier period had been allowed the modvat credit on this very item i.e. ramming mass, by the Tribunal and that order remains unchallenged by the Revenue. Therefore, they cannot be denied modvat credit for the subsequent period. The impugned order of the Commissioner (Appeals) allowing the credit of the disputed amount to the respondents on ramming mass, is perfectly valid and does not suffer from any legal infirmity.

5. Consequently, there is no merit in the appeal of the Revenue and same ordered to be dismissed.

(Pronounced in the Court)

( P.S. Bajaj )  
Member(Judicial)

Dt: 11.1.2001  
ss