

GRAM : CEGCANAL
THE CUSTOMS, EXCISE & GOLD (CONTROL) APPELLATE TRIBUNAL,
West Block No. 2, R.K. Puram, New Delhi - 110066.

REGISTERED/A.D

E/S | 1891 | 2000 - NB (SM) in BENCH NB (SM)
Appeal No. E | 3363 | 2000 - NB (SM)

Dated : 12/3/2001

CEGAT
NEW DELHI
To,

M/s Shree Ganesh Rolling
Mills (I) Ltd., Delhi Road,
Satrod Khurd, Hissar-125044
(Haryana)

In the matter of :

M/s Shree Ganesh Rolling Mills (I) Ltd., Appellant
vs.
CCE Delhi - III Respondent

stay order No S | 116 | 2001 - NB (SM)

I am directed to transmit herewith a certified copy of Final Order No. A | 341 | 2001 - NB (SM)
Dated : 26-2-2001.....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. CCE Delhi - III
2. CCE / CC / (Appeal) New Delhi
3. Chief Commissioner of Central Excise / Customs. New Delhi
4. Adv. / Consult. Shri K.K. Gupta, Adv.
B-137, Rampurstha Chharianabad (Y.P.)
5. S.D.R
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, Bhishm Pitamah Marg, opp. Sachdeva P.T. College of Defence Colony, New Delhi-110003
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Asstt. Registrar

CUTOMS EXCISE AND GOLD (CONTROL) APPELLATE TRIBUNAL,
NEW DELHI

E/S/1891/2000-NB(SM) in&E/3363/2000-NB(SM)

(Arising out of Order-in-Appeal No. 718-CE/DLH/2000 dated 22.8.2000 passed by the Commissioner of Central Excise (Appeals), New Delhi)

M/s. Shree Ganesh Rolling Mills (I) Ltd. Appellants,
Reptd. by Sh. K.K. Gupta, Advocate

Versus

CCE, Delhi

Respondent,

Reptd. by Sh. Swatanter Kumar, JDR

FINAL ORDER NO. *A/341/01/NB (CE/M)*
DATED 18.1.2000
STAY ORDER NOS/116/01/NB (CE/M)
Per V.K. Agrawal:

Today's the matter is posted for hearing the Stay Application filed by M/s. Shree Ganesh Rolling Mills (I) Ltd. As the issue involved is in very narrow compass, I stay the recovery of entire amount of duty and penalty and take up the appeal itself for disposal with the consent of both the sides.

2. Shri K.K. Gupta, learned Advocate, submitted that the Appellants manufacture M.S. structural's and other rolled products with the help of rolling mill; that due to wear and tear, certain rolls become unfit for use in the rolling mill; that they purchase rough rolls from the market which are grooved by them on both ends in their factory; that the Deputy Commissioner, under Adjudication Order No. 3/97 dated 15.10.97 demanded duty, holding that rolls after ^{machining} ~~maching~~ done by the Appellants are different excisable product falling

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under Heading 84.55 of the Schedule to the Central Excise Tariff Act; that Commissioner (Appeals) also rejected their appeal, under the impugned Order. He, further, submitted that the rolls are used captively as parts of the machine and as such are exempted from payment of duty under Notification No. 217/86-CE, dated 2.4.86 and later under Notification No. 67/95-CE, dated 16.3.1995; that the question that parts of machines are inputs has been settled by the Larger Bench of the Tribunal in the case of Pratap Rajasthan Special Steel Ltd. vs. CCE, Jaipur, 2000 (38) RLT 593. The learned Advocate finally submitted that the Rolls will be exempted also under Notification NO. 281/86-CE dated 24.4.1986 as the rolls were used within the factory of manufacture for maintenance of machinery. Reliance was placed on the decision in the case of Shri Bajrang Alloys Ltd. vs. CCE, Raipur, 1994 (2) RLT 544 (CEGAT) and Steel Authority of India vs. CCE, Raipur, 2000 (118) ELT 585 (T).

3. Shri Swatantra Kumar, learned D.R., submitted that the Appellants had not claimed the benefit of either Notification No. 217/86 (later 67/95) or 281/86 before the lower authorities. He, therefore, requested that matter may be remanded to the Adjudicating Authority for considering the applicability of these Notifications.

4. I have considered the submissions of both the sides. In SAIL VS. CCE, Raipur, supra, the Appellate Tribunal has held that the process of grooving a plain

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sheel rolls amounts to manufacture as the process results in emerging of distinctive new commercial commodity. I further observe that Notification No. 281/86 exempts all excisable goods manufactured in a workshop within a factory and intended for use in the said factory for repair or maintenance of machinery installed therein, from whole of the duty of excise leviable thereon. The lower authority did not have the opportunity to examine the availability of the said Notification to the impugned goods as the Appellants had not claimed the exemption under the Notification. Further, Notification NO. 217/86 (later 67/95) also exempts specified excisable goods used captively in or in relation to the manufacture of final products subject to certain exceptions. I, therefore, remand the matter to the Adjudicating Authority with the direction to consider whether the impugned goods are eligible to exemption under the Notification Nos. 281/86 and 217/86 (subsequently 67/95) and pass order afresh as per law after affording a reasonable opportunity of hearing to the Appellants. The Appeal is, thus, allowed by way of remand.

(V.K. AGRAWAL)
MEMBER (TECHNICAL)

Dated 26th February, 2001

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