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

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

BENCH NB(SM)

Appeal No. E/28/2001 - NB(SM)

Dated : 21/3/2001

CEGAT  
NEW DELHI  
To,

CCE Bhopal

In the matter of :

CCE Bhopal

Appellant

vs.

M/s Insulators & Electrical Co.

Respondent

I am directed to transmit herewith a certified copy of Final Order No. A/388/01-NB(SM)  
Dated : 7-3-2001 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 : M/s Insulators & Electrical Co.,  
Mandideep,  
Distt. Raisen (M.P)

<sup>file</sup>  
Asstt. Registrar  
NB(SM)

1. CCE/ECT (Appeal) Bhopal  
2. Chief Commissioner of Central Excise / Customs. Jaipur  
3. Adv. / Consult.  
4. ~~Adv.~~ Shri A.H. Ansari, Adv.,  
c/o Respondent.

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

CUSTOMS, EXCISE & GOLD(CONTROL) APPELLATE TRIBUNAL,  
NEW DELHI.

E/APPEAL NO. 28/2001/NB(S)

(Arising out of Order-in-Appeal No. 1178-CE/BPL/2000 dated 13.11.2000 passed by the Commissioner of Central Excise & Customs (Appeals), Bhopal).

C.C.E., Bhopal.

Appellant  
(Sh. Swatantar Kumar, JDR)

vs

M/s. Insulators & Electrical Co.

Respondent  
(Sh. A.H. Ansari, Advocate)

FINAL ORDER NO. A/388/01/NB(S)  
(Dated the 7th March, 2001) (S/m)

PER S.S. KANG :

Revenue filed this appeal against the order-in-appeal passed by the Commissioner (Appeals).

In the impugned order, the Commissioner (Appeals), while allowing the benefit of MODVAT Credit on cables, fuses, relay contractor & spare part of hoist, held that the amendments by notification nos. 11/95-CE (NT) dated 16.3.95 and No. 14/96-CE (NT) dated 23.7.96 are clarificatory in nature.

Heard both sides.

The view taken by the Commissioner (Appeals) that the notifications whereby the definition of capital goods under Rule 57 Q is contrary to the

decision of the Larger Bench of the Tribunal in the case of C.C.E., Indore vs Surya Roshni Ltd. reported in 2001 (128) E.L.T. 293 whereby the Tribunal held that the above mentioned notifications are prospective in nature. Therefore, the impugned order is set aside and the matter is remanded to the Commissioner (Appeals) for deciding the appeal afresh after taking into consideration the decision of the Larger Bench of the Tribunal in the case of Surya Roshni Ltd. (supra). The appeal is disposed of by way of remand. (Dictated in Court).

(S.S. KANG)  
MEMBER (JUDICIAL)

Dt. 07.03.2001  
vk