TELEGRAM : CEGCANAL
Website : www.cestat.gov.in

REGISTERED / AD
Email : delhi@cestat.gov.in

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/2077/2009 – SM[BR]** Date **26/07/2011**

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

To :
C.C.E. DELHI III
UDYOG MINAR, UDYOG VIHAR, VANIJYA NIKUNJ,
PHASE V, GURGAON - 122016 (HARYANA)

C.C.E. DELHI III Appellant

Vs

M/S INDIA NIPPON ELECTRICALS LTD. Respondent

I am directed to transmit herewith a certified copy of **Final order No. 430 / 2011 –SM[BR]** dated 23.6.2011 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 INDIA NIPPON ELECTRICALS LTD.
VILLAGE-
MASANI,DISTT-REWARI.

2. Adv. / Consult
NONE:---------------------

3. C.D.R
4. Bar association, CESTAT, New Delhi
5. Director Publications, Customs, Excise. I.P. Estate, New
6. M/s Centax Publictions Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi -
7. Company Law Institute of India Pvt Ltd.,No.2(Old No. 36), Vaithyaram Street, T. Nagar,Chennai -17
8. Taxmann Allied Service Pvt Ltd., 59/32, New Rohtak Road, New Delhi -
9. Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road, Ahmedabad-15
10. LAWCRUX Advisors Pvt Ltd, LAW House,1-8,Sector - 10, Faridabad 121003 (Haryana)
11. TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor,Vasant Arcade,Nelson Mandela Road, Vasant Kunj, New Delhi - 110070
12. Office Copy
13. Guard file

Assistant Registrar
(SM Appeal Branch)

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

West Block No. 2, R.K. Puram,
New Delhi – 110 066.
Principal Bench, New Delhi

COURT NO. IV
Excise Appeal No. 2077 of 2009 (SM)

[Arising out of the Order-in-Appeal No.109/ANS/GGN/2009, dated 23.04.2009 passed by The Commissioner (Appeals), Central Excise, New Delhi-III.]

For Approval and signature :
Hon'ble Shri M.V.Ravindran, Member (Judicial)

1.	Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	:	No
2.	Whether it would be released under Rule 27 of the 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 Department Authorities?	:	Yes

CCE, Delhi-III — Appellant

Versus

Indian Nippon Electricals Ltd. — Respondent

Appearance
Ms. Renu K.Jagdev, SDR - for the appellant.
None – for the respondent.

CORAM : **Hon'ble Shri M.V.Ravindran, Member (Judicial)**

DATE OF HEARING / DEICISION : 23/06/2011.

Final Order No. 430/2011 SM(BR) Dated : ____________

Per M.V.Ravindran

This appeal is filed by the Revenue against the Order-In-Appeal No. 109/ANS/GGN/2009, dated 23.04.2009.

2. None appeared on behalf of the respondent despite the intimation about the date of hearing being today.

3. Ld. SDR would submits that the appeal is against impugned order setting aside the Order-In-Original of Commissioner (Appeals) that the appellant had availed Cenvat credit on the Service Tax on goods transport agencies paid by TR6 challan.

5. I have heard the submissions made by the Ld. SDR.

6. On perusal of the grounds of appeal, basically I find that the revenue is aggrieved by the order only on the ground that the service tax is paid under TR6 challan and it is the submission that the grounds of appeal and the SDR that TR6 is not a duty paying document, as provided in the Cenvat credit Rules.

7. On perusal of the appeal, I find that the Ld. Commissioner (Appeals) while setting aside the Order-In-Original that confirmed demand raised for availing credit on such TR6 challan as according to paragraph 8-9 that said Rules clearly provide that prior to 16/03/2006, Cenvat credit can be availed on TR6 challan which indicated the discharge of Service Tax liability as held by the decision in the case of (1) CCE vs. Essel Propack Ltd. - 2007(8)STR609(Tri.-Mum.) (2) CCE Goa vs. Crompton Greaves - 2008(276)ELT117. The issue involved in this case is the same and decisions of the Tribunal are binding on the Commissioner(Appeals). There is no case made out for deviating from the ratio laid down.

8. In view of the foregoing, I do not find any reason for interference in the said impugned order and held that it is legal and correct. Appeal filed by the Revenue is rejected.

(Dictated and pronounced in open court.)

(M.V.Ravindran)
Member (Judicial)

RK-I