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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/1644/2010 – SM[BR] E/ STAY / 1642 /2010-SM[BR]** Date **25/08/2011**

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

To :
M/S U.P.POWER CORPORATION LTD.
POLE MANUFACTURING CIVIL SUB DIVISION,
BARAHVA, GORAKHPUR, (U.P.)
M/S U.P.POWER CORPORATION LTD. Appellant

Vs

C.C.E ALLAHABAD Respondent

I am directed to transmit herewith a certified copy of **Final order No. 516/2011-SM[BR]&S/450/2011** dated 12.8.2011 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 ALLAHABAD
38,M.G.MARG, CIVIL LINES,
ALLAHABAD

2. Adv. / Consult
MR.SATYA PAL SINGH,COUNSEL
B-133, BGS BLOCK, TIS HAZARI, DELHI.-110054

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.II, R.K. PURAM, NEW DELHI-110066.
BENCH-SM

Excise Stay Appn. No.E/S/1642/10-SM in
Excise Appeal No.1644/10-SM

[Arising out of Order-in-Appeal No.76/CE/APPL/ALLD/2010 dated 26.03.2010 passed by the Commissioner (Appeals) Allahabad, U.P.].

M/s.U.P. Power Corpn. Ltd. ...Appellant

Vs.

CCE, Allahabad ... Respondent

Present for the Appellant : None
Present for the Respondent:Shri.B.L. Soni, S.D.R.

Coram: HON'BLE MR. D.N. PANDA, JUDICIAL MEMBER

Date of Hearing/Decision:12.08.2011

Final **ORDER NO.** 516/2011 SM (BR) + S-450/2011 SM (BR) **DATED:**________

PER: D.N.PANDA

Application for adjournment has been made by the Counsel for the appellant on health ground of his daughter. Looking to the magnitude of demand of Rs.1,12,458.20, it is considered proper not to add to pendency in the Tribunal. When the gravity of the matter was looked into, it appears that the appellant at Lucknow had made some purchase of goods for use thereof in its Unit at Gorakpur, for improper verification of the concerned invoices and no production of original invoice the appellant was denied credit. Similarly in respect of certain invoices the duplicate copies of invoices were stated to be lost for which certain quantum of cenvat credit was inadmissible. The third count of inadmissibility related to sl.No.7 to 10 of the invoices stated by the adjudicating authority at page 6 of his order. Those invoices are recorded to be not in the name of the appellant but in the name of Jaypee Rewa Cement, Satna. Finding that the invoices were not related to the appellant and those were six months old credit was denied. The forth count of disallowance was invoice at Sl.No.11 & 13 as appearing in the adjudication order at page 6. Invoices were although original, credit was denied. In respect of invoice at sl.no.12 which was extra copy was also more than six months old. The authority also found that there was no document in respect of cenvat credit of Rs.134.78

2. When the inadmissibility of cenvat credit was on above grounds appellate authority has passed 17 paged order without referring for enquiry to come to a rational conclusion. Public confidence on law and Courts should not be defeated by literal disposal of appeal. The appellant's grievance is to be redressed causing proper enquiry and following due process of law to show that justice is not only done but is seemed to have been imparted.

3. There is no need to speak more for this small amount of demand involved wasting time of Tribunal. Therefore, waiving requirement of pre-deposit, the matter is remanded to the adjudicating authority to conduct fair enquiry at the source of origin of the invoice itself and expose ~~the~~ result of the enquiry to the appellant for rebuttal. On the basis of outcome of the rebuttal and the enquiry and taking into law into consideration, the matter is to be put to an end as far as practicable without raising unnecessary disputes and wasting public time and cost. In view of the above, both stay application and appeals are disposed.

[Dictated & Pronounced in the open Court].

(D.N.PANDA)
JUDICIAL MEMBER

Anita