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CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066

CUSTOMS APPEAL BRANCH

Appeal No. C/461 /2006,537 /2006 - CU[DB] Date **25/07/2011**

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

To :
COMMISSIONER OF CUSTOMS, AMRITSAR
CUSTOMS COMMISSIONERATE, THE MALL,
AMRITSAR

COMMISSIONER OF CUSTOMS, AMRITSAR Appellant

Vs

M/S. DANG STEEL PVT. LTD. Respondent

I am directed to transmit herewith a certified copy of **Final order No.C/337-338/ 2011 CU[DB]** dated 21.07.2011 passed by the Tribunal under **Section 129, (B) of the Customs Act,1962 & Financial Act 1994 relating to Service Tax**

Assistant Registrar
(Customs Appeal Branch)

Copy to :

1. Respondent
M/S. DANG STEEL PVT. LTD.
B-XXIX-532/68-2, SINGLA CYCLE
ROAD, OPP. DHANDARI
RAILWAY STATION, LUDHIANA

2. Adv. / Consult
MR.SUDHIR MALHOTRA
13-R, HUKAM CHAND COLONY,
NEAR D.A.V COLLEGE, JALANDHAR

3. C.D.R
4. Bar association, CESTAT, New Delhi
5. Director Publications, Customs, Excise. I.P. Estate, New Delhi
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 - 110005
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
14. M/S DEV STEEL FORGING INDUSTRY, SODAL ROAD,JALANDHAR.

Assistant Registrar
(Customs Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST BLOCK NO.II, R.K. PURAM, NEW DELHI-110066.
BENCH-DB

Customs ROM Application No.C/ROM/48-49/2010 in Customs Appeal No.C/461 & 537/06

[Arising out of Order-in-Appeal No.45-46/CUS/CHD/06 dated 7.3.2006 passed by the Commissioner of Customs & Central Excise (Appeals) Chandigarh and Final Order No.C/159-164/2010 dated 08.10.2010 passed by Hon'ble Members of Customs, Excise, & Service Tax Appellate Tribunal, New Delhi].

For approval and signature:

Hon'ble Dr.Chittaranjan Satapathy,Member(Technical)
Hon'ble Mr.D.N. Panda, 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?	Yes
2	Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	Yes
3	Whether Their Lordships wish to see the fair copy of the Order?	Seen
4	Whether Order is to be circulated to the Departmental authorities?	Yes

CC, Amritsar ...Appellants

Vs.

M/s. Dang Steel Pvt. Ltd. &
M/s.Dev Steel Forging Industry ... Respondent

Present for the Appellant :Shri.Shri R.K. Gupta, DR
Present for the Respondent :Shri.Sudhir Malhotra, Advocate

Coram:Hon'ble Dr.Chittaranjan Satapathy,Member(Technical)
Hon'ble Mr.D.N. Panda, Member (Judicial)

Date of Hearing: 18.7.2011
Date of Decision: 18.7.2011

Misc Order No. C/159-160/11

Final **ORDER NO.** C/337-338/11 **DATED:18.7.2011**

PER: D.N. PANDA

Both the cases filed by Revenue were disposed vide Final Order No.C/159-164/2010 dated 8.10.10. It was held that the assessee respondents were not entitled to duty benefit under DEPB Scheme against fraudulently obtained DEPB scrips for which first appellate orders were set aside restoring Orders-in-Original setting aside penalties imposed. Thus, appeals of Revenue were partly allowed.

2. These two respondents have moved application for rectification of mistake stating that DEPB Scrip No.30100113090 dated 20th November, 2001 and Scrip No.3010011116 dated 9.8.2001 were not cancelled as per order No.11/1/02-03/ECA-1 dated 16.7.2002 passed by Additional DGFT and such fact was brought to the notice of Tribunal by a written memo filed after hearing. Relevant DEPB scrips having been ordered by Additional DGFT to be treated as not cancelled *ab initio*, these two respondents deserve consideration before Original Authority. Therefore, prayer of the Respondents is to send the matter back to the Original Authority to re-examine the issue on the context of the communication issued by the DGFT showing no cancellation of the scrips *ab initio*.

3. Revenue having agreed to the proposition of the ld. Counsel for Respondent to modify the order passed against these two respondents as aforesaid, both matters are sent back to the Original Authority to consider the prayer of the Respondent made as above and pass appropriate order. Consequently, both MA (ROM) are allowed to the extent indicated above with the consent of both sides and earlier order passed is modified to the above extent.

4. Ld. DR is requested to send the copy of MA (ROM) with relevant documents filed by the Respondents for guidance of the ld. Original Authority.

(Operative part of the order pronounced in the Open Court)

(DR.CHITTARANJAN SATAPATHY)
MEMBER (TECHNICAL)

(D.N. PANDA)
MEMBER (JUDICIAL)

Anita