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CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

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

EXCISE APPEAL BRANCH

Date 24/01/2011

Appeal No. E/390 /2006 - EX[DB]

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

To :
M/S CHAUDHARANA STEELS PVT. LTD
SAHTARIA INDUSTRIAL AUTHORITY MUNGRA
BADSHAHPUR DISTT- JAUNPUR

M/S CHAUDHARANA STEELS PVT. LTD Appellant

Vs

C.C.E ALLAHABAD Respondent

I am directed to transmit herewith a certified copy of **Final order No. 106/ 2011 EX[DB]** dated 20-1-11 passed by the Tribunal under **Section 35-C(1)of Central Excises Act, 1944**

Assistant Registrar
(Excise Appeal Branch)

Copy to :

1. Respondent
C.C.E ALLAHABAD
38,M.G.MARG, CIVIL LINES,
ALLAHABAD
2. Adv. / Consult
MR.S.P. OJHA
299, BAGHAMBARI HOUSING
SCHEME, ALLAHPUR, ALLAHABAD
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. M/s. Deeparchie Publications. M-93. Marg. 46. Saket. New Delhi 110017
9. Taxmann Allied Service Pvt Ltd., 59/32. New Rohtak Road. New Delhi - 110005
10. Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road, Ahmedabad-15
11. LAWCRUX Advisors Pvt Ltd. LAW House,1-8,Sector - 10. Faridabad 121003 (Haryana)
12. TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor,Vasant Arcade,Nelson Mandela Road, Vasant Kunj, New Delhi - 110070
13. Office Copy
14. Guard file
15. HON'BLE PRESIDENT.

Assistant Registrar
(Excise Appeal Branch)

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI, PRINCIPAL BENCH NEW DELHI

Date of Hearing: **20.01.2011**

Date of decision: **20.01.2011**

For approval and signature:

Hon'ble Shri Justice R.M.S. Khandeparkar, President
Hon'ble Shri Rakesh Kumar, Member (Technical)

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?	No
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

Excise Appeal No.E/390/2006-Excise

[Arising out of Order-in-Appeal No.120/CE/Alld/2005 dated 20.12.2005 passed by the Commissioner of Central Excise (Appeals), Allahabad (U.P.)].

M/s.Chaudharana Steels Pvt. Ltd. ....Appellants

Vs.

CCE, Allahabad (U.P.) ...Respondent

Appearance: Rep. by none for the appellant.
Rep. by Shri V. Chaudhry, DR for the respondent/Deptt.

CORAM: Hon'ble Shri Justice R.M.S. Khandeparkar, President
Hon'ble Shri Rakesh Kumar, Member (Technical)

FINAL Order No. 106/11-EX /Dated:20.01.2011

Per Hon'ble Shri Justice R.M.S. Khandeparkar:

None present for the appellants though served. Shri V. Chaudhry, DR is present for the respondent.

2. This appeal arises from the order dated 20.12.2005 passed by the Commissioner (Appeals), Allahabad. By the impugned order, the appeal filed by the appellant against the order of the adjudicating authority has been dismissed. The Dy. Commissioner, Allahabad by his order dated 26.08.2005 had confirmed the demand of Rs.21,384/- along with interest and equal amount of penalty against the appellants.

3. The appellants are engaged in the manufacture of ingots of non-alloy steel classifiable under Chapter sub-heading no.7206.90 of the First Schedule to the Central Excise Tariff Act, 1985. The appellants had been working under the Compounded Levy Scheme during the period from 1.9.97 to 31.3.2000. The Notification No.67/95-CE dated 16.03.95 exempted specified excisable goods from payment of duty in relation to the items consumed captively in the factory of production. The said notification was amended under Notification No.59/97-CE dated 3.8.97, whereby the ingots and billets as final products classifiable under sub-heading no.7206.90 and 7207.90 were exempted from the applicability of the said exemption notification. Consequently, the inputs used in the manufacture of ingots and billets were not entitled to avail the benefit of exemption under the said Notification No.67/95-CE dated 16.03.95.

4. Since the appellants in contravention of the said notification sought to claim the benefit of the said exemption notification, show cause notice

dated 17.09.2003 came to be issued to the appellants which was sought to be contested by the appellants. However, the adjudicating authority confirmed the demand as stated above and the appeal filed against the same failed before the Commissioner (Appeals).

5. Plain reading of the said exemption notification discloses that the inputs used in the manufacture of ingots and billets of non-alloy steel classifiable under sub-heading No.7206.90 and 7207.90 of the Schedule to the said Act are excluded from availment of the benefit of exemption under the said notification. The fact that the appellants are manufacturing ingots of non-alloy steel classifiable under sub-heading no.7206.90 of the schedule to the said Act is not in dispute. Being so, we do not find any case of interference in the concurrent orders passed by the authorities below.

6. As rightly observed by the adjudicating authority, perusal of Board's Circular No.690/6/2003-CX dated 20.01.2003 also further clarifies the position and makes it clear in the facts and circumstances of the case that the appellant was not entitled for the benefit of the said exemption notification. Hence, the appeal fails and is hereby dismissed.

[Justice R.M.S. Khandeparkar]
President

[Rakesh Kumar]
Member [Technical]

Ckp.