

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
EXCISE APPEAL BRANCH

Appeal No. E/2103/2005 - EX[DB] WITH E/CO/14/2006

Date 29/08/2011

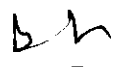
Assistant Registrar
C.E.S.T.A.T, New Delhi

To :
C.C.E.CHANIGARH
C.R.BUILDING I.P.ESTATE NEW DELHI
110002
C.C.E.CHANIGARH

Appellant
Vs
Respondent

M/S SEMICONDUCTOR COMPLEX LTD.

I am directed to transmit herewith a certified copy of Final order No.786/ 2011 EX[DB] dated 17-8-11
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944


Assistant Registrar
(Excise Appeal Branch)

Copy to :

1. Respondent
M/S SEMICONDUCTOR COMPLEX LTD.
PHASE VII, S.A.S. NAGAR MOHALI

160059

2. Adv. / Consult SH. A.S. GILL, ADV,
3355, 21-D, CHANDIGARH-21

3. C.D.R
4. Bar association. CESTAT. New Delhi
5. Director Publications. Customs. Excise. I.P. Estate. New Delhi
6. M/s Centax Publications 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 (Harvana)
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
(Excise Appeal Branch)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

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

COURT-I

Date of hearing/decision: 16.8.2011

Central Excise Appeal No.2103 of 2005 with Cross-Objection No.14/2006

[Arising out of order in appeal No.108/CE/CHD/2005 dated 23.3.2005 passed by the Commissioner of Central Excise (Appeals), Chandigarh.

For Approval and Signature:

Hon'ble Ms. Jyoti Balasundaram, Vice President
Hon'ble Shri Rakesh Kumar, Technical Member

1	Whether Press Reporter may be allowed to see the Order for publication as per Rule 26 of the CESTAT (Procedure) Rules, 1982?	No
2	Whether it should be released under Rule 26 of 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

C.C.E., Chandigarh

.. Appellant

Vs.

Semiconductor Complex Ltd.

... Respondents

Appearance:

Shri I. Baig, Authorized Departmental Representative(DR) for the Revenue
Shri A.S.Gill, Advocate for the respondents.

Coram: Hon'ble Ms. Jyoti Balasundaram, Vice President
Hon'ble Mr. Rakesh Kumar, Technical Member

FINAL Oral Order No. 786/2011-EX

Per Ms. Jyoti Balasundaram:

Revenue challenges the order of the Commissioner (Appeals) extending the benefit of Cenvat credit under rule 57-R to the assessee on the ground that although initially they had claimed depreciation under the provisions of Income Tax Act, 1961, they had subsequently reversed the same. It is the contention of the Department that the lower appellate authority has reached the conclusion that the assessee had reversed the depreciation without sufficient documentary evidence to ~~the~~^{that} effect being produced by the assessee.

2. We have heard both sides. Learned DR is correct ^{in his submission} and submits that documentary proof of reversal of depreciation was not produced before the authorities below. ^{Interest} of justice therefore, requires that the impugned order be set aside and the case remitted to the adjudicating authority for fresh decision in the light of the materials to be produced by the assessee in support of their claim that they reverse the depreciation initially claimed under the Income Tax Act, fresh order shall be passed after affording a reasonable opportunity of hearing to both sides.

3. Appeal is thus allowed by way of remand. Cross-objection filed by the assessee also stands disposed of.

(Jyoti Balasundaram)
Vice President

(Rakesh Kumar)
Technical Member

scd/