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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

Appeal No. E/3967/2010,4014/2010-4015/2010 - EX[DB] WITH E/S/3825&3901-3902/2010-EX   Date **12/10/2011**

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

To :
M/S CHAUDHARY HAMMER WORKS LTD.,
P.O. BOX-20, NEAR HAPUR ROAD, FLYOVER,
MALIWARA, GHAZIABAD.
201001

M/S CHAUDHARY HAMMER WORKS LTD., Appellant

Vs

C.C.E. GHAZIABAD Respondent

STAY ORDER NO. 1041/2011-EX
STAY ORDER NO. 1042-1043/2011-EX

I am directed to transmit herewith a certified copy of **Final order No.861&862-863/ 2011 EX|DB|** dated 30-9-11 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. GHAZIABAD
C.G. O. COMPLEX-II, KAMLA
NEHRU NAGAR, GHAZIABAD
201302

2. Adv. / Consult SH. S. GANESH, SR. ADV, + SH. AJAY AGARWAL, ADV,
MR.MRINAL BHARTI, ADV
B-9,SHEKHAR APARTMENTS, MAYUR VIHAR PHASE I EXTN, DELHI.

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 (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)

P.T.O.-2,

S.K. SHARMA, DIRECTOR-COMMERCIAL
M/S CHAUDHARY HAMMER WORKS LTD.,
P.O. BOX 20, NEAR HAPUR ROAD, FLYOVER,
MALIWARA GHAZIABAD.

SH. MANOJ KUMAR SINGAL, COMMERCIAL MANAGER, M/S
P.O. BOX 20, NEAR HAPUR ROAD, FLYOVER, MALIWARA GHAZIABAD.

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
Court No.II

E/Stay No.3825/2010 in E/Appeal No.3967/2010

(Arising out of order in original No.21/Commr/Gzb/2010 dated 16.9.10 passed by the Commissioner of Central Excise, Ghaziabad)

Date of Hearing: 22.9.2011

M/s Chaudhary Hammer Works Ltd — Appellants

Vs

CCE, Ghaziabad — Respondent

Appeared for the Appellant: Shri S. Ganesh, Sr. Advocate
Shri Ajay Agarwal, Advocate
Appeared for the Respondent: Shri Sumit Kumar , DR

Coram: **Hon'ble Mr D.N. Panda, Member Judicial**
Hon'ble Mr. Mathew John, Member Technical

STAY order No. 1041/2011-EX
FINAL ORDER No. 861/2011-EX

Per D.N. Panda:

Learned Counsel submits that if para (i) in the grounds of appeal is appreciated, that shall resolve the controversy. Circular No. 698/200 dated 13.2.2003 having been issued to benefit the Assessee in accordance with the Cost Accounting Standard - 4,(CAS-4) that shall determine value for proper assessment. He points out that the authorities made their observation without following the circular prescribed by the Board for adoption of CAS-4 to be the basis for determination of assessable value of the goods captively consumed.

2. It appears from the ground to which our attention was drawn

that the appellant is prepared to discharge its burden of proof in terms of CAS-4. There was confusion between the parties about relevancy of CAS-4 when we read para 6.1 of the order.

3. Learned DR states that facts and figures were not given by the appellant. Hence, it was not possible for the authorities to understand whether the figures at page 35-41 is drawn in accordance with CAS-4. Therefore, the appellant faced consequence of law.

4. The observations in the impugned order invites attention to technical aspects for which keeping the appeal pending in Tribunal shall not serve any useful purpose. Therefore, there shall be waiver of requirement of pre-deposit and we send the matter back to the adjudicating authority for re-adjudication on the basis of CAS-4 to be submitted by the appellant. It is needles to mention that the appellant shall be given due opportunity of hearing before passing de-novo adjudication order. Since we have remanded the matter, all legal issues are open to assessee to urge before the Authority below..

(Order dictated and pronounced in the open Court.)

(D.N. PANDA)
Judicial Member

(MATHEW JOHN)
Technical Member

MPS*

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
Court No.II

E/Stay No.3901/2010 in E/Appeal No.4014/2010

(Arising out of order in original No.21/Commr/Gzb/2010 dated 16.9.2010 passed by the Commissioner of Central Excise, Ghaziabad)

Date of Hearing: 22.9.2011

Manoj Kumar Singhal
Manager

Appellant

Vs

CCE,Ghaziabad

Respondent

E/Stay No.3902/2010 in E/Appeal No.4015/2010

S.K. Sharma
Director

Appellant

Vs

CCE,Ghaziabad

Respondent

Appeared for the Appellant: Shri S. Ganesh, Sr. Advocate
Shri Ajay Aggarwal, Advocate
Appeared for the Respondent: Shri Sumit Kumar,DR

Coram: **Hon'ble Mr D.N. Panda, Member Judicial**
Hon'ble Mr. Mathew John, Member Technical

STAY ORDER No. 1042-1043/2011-EX
FINAL ORDER No. 862-863/2011-EX

Per D.N. Panda:

These two appeals being consequence of Appeal No. E/3967/2010, we waive the requirement of pre-deposit. These cases are also remanded to the adjudicating authority for adjudication.

(Order dictated and pronounced in the open Court.)

(MATHEW JOHN)
Technical Member
MPS*

(D.N. PANDA)
Judicial Member