

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

Appeal No. E/2653/2007 - EX[DB] WITH E/M/669/2011

Date 11/11/2011

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

To :
M/S LG ELECTRONICS INDIA PVT. LTD.
PLOT NO 51,UDYOG VIHAR, SURAJPUR-KASNA
ROAD, GREATER NOIDA, UTTAR PRADESH
M/S LG ELECTRONICS INDIA PVT. LTD.

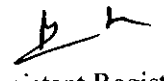
Appellant
Vs
Respondent

C.C.E. NOIDA

MISC ORDER NO. 625/2011-EX

I am directed to transmit herewith a certified copy of **Final order No.933/**
passed by the Tribunal under **Section 35-C(1)of Central Excises Act, 1944**

2011 EX[DB] dated 08-11-11


Assistant Registrar
(Excise Appeal Branch)

Copy to :

1. Respondent
C.C.E. NOIDA
C-56/42, SECTOR-62, NOIDA-
201307

2. Adv. / Consult
MR.V. LAXMIKUMARAN
B-6/10, SAFDARJUNG ENCLAVE, NEW DELHI-110029

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 No. 1

Date of hearing/decision: 2.11.2011

**Misc. App. No. of 669 of 2011 in
Excise Appeal No. 2653 of 2007**

M/s LG Electronics India P.Ltd. Appellants
Vs. Respondent
CCE, Noida

Appearance:

Rep. by Sh. H.Bajaj, Adv. & Sh. R.Ravi, Adv. for the
appellant.

Rep. by Sh. B.K.Singh, JCDR for the respondent.

**Coram: Hon'ble Sh. S.S. Kang, Vice President
Hon'ble Sh. Mathew John, Member (Technical)**

MISC ORDER NO. 625/2011-EX

FINAL ORDER NO. 933/2011-EX DATED _____

Per: S.S. Kang:

Heard both sides.

2. Applicant filed this application for early hearing of the appeal on the ground that appellant had already ^{filed} necessary declaration in view of retrospective amendment of Rule 6 of Cenvat Credit Rules, 2004 ^{by} Section 73 of Finance Act, 2010. It is also submitted that for earlier period when the demand was confirmed vide Tribunal's order dated 29.6.2010, the matter is remanded to the Original Authority for fresh decision. As the appellant has filed the necessary declaration as provided under Rule 6 of Cenvat Credit Rules and the revenue involved is more than Rs. 10 crores, the early hearing of application is allowed and with the consent of the both sides, appeal is taken up for hearing. The demand is confirmed in view of the provisions of Rule 6 of Cenvat Credit Rules on the ground that the appellants are taking credit on common inputs ^{used in the manufacture of} ~~or~~ exempted goods as well as

dutiable goods. Now the Rule 6 of the Rules ^{is} amended retrospectively where the option has been given to the assessee to file necessary declaration of reversal of credit availed in respect of inputs, goods ^{used} involved, in relation to the manufacture of exempted goods. The appellants have filed necessary declaration. Further we find that for the earlier period in appeal No.297-298 of 2006 vide final order dated 29.6.2010, the matter has been remanded to the ~~adjudication~~ ^{adjudicating officer} for fresh decision and in view of the retrospective amendment in Cenvat Credit Rules. In view of these circumstances and in view of earlier decision, the impugned order is set aside and matter is remanded to the adjudicating authority ^{to decide afresh after} for affording a fair opportunity of hearing to appellant. *Appeal is disposed by way of remand.*

(Dictated and pronounced in the open court)

(S.S. Kang)
Vice President

(Mathew John)
Member (Technical)

RK-I