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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/2102/2005 - EX[DB]

Date **16/11/2011**

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

To :
C.C.E.CHANDIGARH
PLOT NO-19,SECTOR 17C,CHANDIGARH
160017

C.C.E.CHANDIGARH Appellant
Vs
M/S NORTH INDIA PRE-STRESSERS Respondent

I am directed to transmit herewith a certified copy of **Final order No.947/ 2011 EX|DB|** dated 04-11-11 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 NORTH INDIA PRE-STRESSERS
VILL.BADMAJRA CHANDIGARH
KHARAR ROAD P.O.BALONGI
DISTT ROPAR(PB)

2. Adv. / Consult SH. AJAY AGARWAL, ADV., C/C
MR.JAGMOHAN BANSAL
1640/1,SECTOR-40B,CHANDIGARH

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)

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.

Date of Hearing : 14.10.2011

Excise Appeal No. 2102 of 2005

[Arising out of common Order-in-Appeal No. 113/CE/CHD/2005 dated 28.3.2005 passed by the Commissioner (Appeals), Central Excise, Chandigarh]

Coram:
Hon'ble Shri Ashok Jindal, Member (Judicial)
Hon'ble Shri Mathew John, Technical Member

1.	Whether Press Reporter may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	Yes
2.	Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	No
3.	Whether their Whether their Lordships wish to see the fair copy of the order?	Seen
4.	Whether order is to be circulated to the Department Authorities?	No

CCE, Chandigarh — Appellant

Vs.

M/s North India Pre-Stressers — Respondents

Appearance:

Appeared for Appellant : Shri R.K. Verma, DR
Appeared for Respondent : Shri Ajay Agarwal, Advocate

Coram:
Hon'ble Shri Ashok Jindal, Member (Judicial)
Hon'ble Shri Mathew John, Member (Technical)

FINAL Order No:.947/2011-EX.........dated............

Per **Mathew John:**

The Respondents are manufacturers of RCC poles falling under Sub-Heading No. 6807.90 of the First Schedule to the Central Excise Tariff Act, 1985. They availed facility under Cenvat Credit Rules 2002.

One of the inputs on which Cenvat credit was availed by them was steel wire falling under Sub-heading No. 7217.90 of the Central Excise Tariff. Based on the Circular No. 720/36/2003-CX dated 29.5.2003 issued by CBEC, Revenue was of the opinion that drawing of steel wires from wire rods does not amount to manufacture. This circular was based on the decision of the Supreme Court dated 27.3.2003 to that effect. Therefore Revenue was of the view that since no excise duty was payable on the wires used by the Respondent as input they could not have taken Cenvat credit of amount paid as duty on the said items. Therefore, they issued a Show Cause Notice demanding Rs.8,66,436/- availed by the Respondents, during the period 1.7.2003 to 7.7.2004. Recovery of interest and penalty under Rule 13 of the Cenvat Credit Rules were also proposed. On adjudication, the Adjudicating Authority confirmed the demand of Rs.8,66,436/- along with interest under Section 11AB of the Act. Further a penalty equal to the said amount has been imposed on the Respondents under Section 11AC of the Act. Aggrieved by the order, the Respondents filed an Appeal with the Commissioner (Appeals) who set aside the impugned order and gave relief to the Respondents from all dues arising from the impugned order. Aggrieved by the order of the Commissioner (Appeals), Revenue has filed this Appeal.

2. After hearing both the sides, we notice that the Government of India has enacted the Taxation Laws (Amendment). Act 2006 with effect from 13.7.2006 to give legal backing to excise duty paid by wire drawing units on wires drawn from wire rods during the period 29.5.2003 to 8.7.2004 and has issued Circular No. 831/18/2006-CX. dated 26.7.2006 advising that all demands of the nature being dealt with in this Appeal should be decided, considering the retrospective legislation made by the Government.

3. We have gone through the said retrospective legislation and the circular dated 26.7.2006 issued by CBEC and we find that the demand confirmed by the Adjudicating Authority against Respondents in this case cannot survive in view of the said retrospective amendment. Therefore, the Appeal filed by Revenue is rejected.

(Pronounced in Court)

(Ashok Jindal)
Member (Judicial)

(Mathew John)
Member (Technical)

RM