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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/2259/2009 - EX[DB] WITH
E/M/235/10 & E/S/2344/2009-EX

Date **06/01/2012**

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

To :
M/S MOUND TRADING COMPANY PRIVATE LTD
PLOT NO E-7(A) & E(8), RIICO INDUSTRIAL AREA,
NEEMRANA, DISTT- ALWAR(RAJ)

M/S MOUND TRADING COMPANY PRIVATE LTD Appellant

Vs

C.C.E. JAIPUR I Respondent

MISC ORDER NO. 20/2012-EX
STAY ORDER NO. 22/2012-EX

I am directed to transmit herewith a certified copy of **Final order No. A/8/ 2012 EX[DB]** dated 03-1-12 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. JAIPUR I
N.C.R.BUILDING, STATUE
CIRCLE, "C" SCHEME, JAIPUR
302005.

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 Publictions Pvt Ltd.,1512-B, Bhishm Pitamah marg,Opp. ICICI Bank of Defence Colony, New Delhi-3
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 (Haryana)
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
PRINCIPAL BENCH, NEW DELHI
Court No.II

E/ Misc No. 235/2010

E/Stay No.2344/2009 in /A No.2259/2009

(Arising out of order in original No.22/09/CE dated 12.5.09 passed by the Commissioner of Customs & Central Excise, Jaipur)

Date of Hearing: 16.12.2011

For Approval and signature:

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

1. Whether Press Reporters may be allowed to see The order for publication as per Rule 27 of the CESTAT(Procedure) Rules, 1982?

2. Whether it would be released under Rule 27 of the CESTAT (Procedure) rules, 1982 for publication in any authoritative report or not?

3. Whether their lordships wish to see the fair copy of the order?

4. Whether order is to be circulated to the Department Authorities?

M/s Mound Trading Co Pvt Ltd	Appellants
Vs	
CCE, Jaipur-I	Respondent

Appeared for the Appellant: Shri B.L. Narsimhan, Advocate
Appeared for the Respondent: Shri I. Beg , SDR

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

MISC ORDER No. 20/2012-EX (BR)
STAY ORDER No. 22/2012-EX (BR)
FINAL ORDER No. A/8/2012-EX (BR)

Per D.N. Panda:

Learned Counsel states that stay application has not been heard so far for which the Misc. application has been filed. On merits, Shri Narasimhan, learned Counsel states that the appellant is a job worker who took cenvat credit on the capital goods belonging to the employer M/s Parel Products Pvt Ltd. He categorically states that the employer has claimed depreciation on the goods and that was shown in balance sheet of the principal. The depreciation claim was made deducting cenvat credit permitted on the capital goods. There is no double claim made at either end i.e. employer or the present appellant job worker. He further states that the ownership of goods is not a criteria to grant cenvat credit whereas user is only criteria.

2. When the merit was placed as above, we enquired from the learned DR whether appeal itself can be taken up for disposal because of the delay in hearing the stay application. He has no objection for which both, stay application and appeals are disposed by this common order

3. Nothing comes from Revenue's record as to any demerit of the appeal. Learned DR has no argument as to why appellant shall be denied relief.

4. Heard both sides and perused the record.

5. So far as the claim of depreciation is concerned, learned Counsel states that the same has been taken only after the cenvat credit relating to capital goods is reduced. This enables to understand that there is no undue claim made by the appellant. Finding no discrepancy in the claim, we allow the appeal.

6. In view of the decision as above, both the Misc. application and stay application also stands disposed of.

(Order dictated and pronounced in the open Court.)

(MATHEW JOHN)
Member Technical
MPS*

(D.N. PANDA)
Member Judicial