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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/100 /2009-102 /2009 - EX[DB] Date **13/01/2012**

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

To :
M/S AUDI AUTOMOBILES PVT. LTD.
PLOT NO. 199-B,SECTOR-I,PITHAMPUR, DISTT.
DHAR (M.P.)

M/S AUDI AUTOMOBILES PVT. LTD. Appellant

Vs

C.C.E. INDORE Respondent

I am directed to transmit herewith a certified copy of **Final order No. A/19-21/ 2012 EX[DB]** dated 06-1-12 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. INDORE
MANIK BAGH PALACE, POST
BOX NO. 10, INDORE 452001 (M.P.)

2. Adv. / Consult SH. P. K HASIJA, ADV.,
B-6/10, S.J. ENCLAVE,
N. DELHI-29

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)

PTO-2

14. M/S EICHER MOTORS LTD.
PITHAMPUR,DISTT. DHAR (M.P.)

15. SHRI ASHOK SHARMA, DIRECTOR
M/S AUDI AUTOMOBILES PVT. LTD., PLOT NO. 199-B,
SECTOR-I, PITHAMPUR, DISTT. DHAR (M.P.)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
West Block No. 2, R.K. Puram, NEW DELHI

COURT No. III

Excise Appeal No.100 to 102 of 2009

Date of Hearing / Decision : 02.01.2012.

[Arising out of Order-In-Original No.45/Comm/CEX/Ind/2008, dated 17.10.2008 issued by CCE, Indore]

For approval and signature:
Hon'ble Ms. Archana Wadhwa, Judicial Member
Hon'ble Mr. Rakesh Kumar, 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?	No
2	Whether it should be released under Rule 27 of the 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

M/s Audi Automobiles P.Ltd. Appellants
Versus
CCE, Indore Respondent

Coram: Hon'ble Ms. Archana Wadhwa, Judicial Member
Hon'ble Mr. Rakesh Kumar, Technical Member

Present for the Appellant – Shri P.K.Hasija, Adv.
Present for Respondent – Shri S.R.Meena, DR

Final **Order No.**A/19-21/2012-EX(BR)**Dated :**____________

Per Ms. Archana Wadhwa:

The issue involved in the present appeal is as to whether while arriving at the assessable value of the motor vehicles manufactured by M/s Audi Automobiles P.Ltd. on behalf of M/s Eicher Motors Ltd. out of chasis supplied by M/s Eicher Motors Ltd., the cost of the chasis is to be taken as 100% or as 110%, which stands adopted by M/s Eicher Motors at the time of ~~C&F~~ clearance of the same from their factory.

Ld. Advocate fairly agrees that the issue stands decided against them by the Larger Bench decision the case of M/s Eicher Motors Ltd. reported in 2008(228)ELT43(Tri.-LB).

2. The demand stands assailed on the point of limitation in as much as the demand for the period 1.11.04 to 31.03.07 was raised by the issuance of SCN dtd. 31.03.08. Ld. Advocate submits that though they have advanced submission on the point of limitation, the Commissioner in his impugned order has not taken the same into consideration and has not given any finding on their plea of limitation. As such he prays for setting aside the impugned order and remanding the matter to adjudicating authority for deciding the plea of limitation.

3. Ld. DR appearing for the Revenue agrees on the above course of action suggested by the ld. Advocate.

4. In view of the above, we set aside the impugned order and remand the matter to Commissioner for deciding the issue of limitation and consequent penalty. Needless to say that the appellant would be given an opportunity of putting their defence and principles of natural justice.would be observed.

5. All the appeals stands allowed by way of remand.

(Pronounced in the Open Court)

(Archana Wadhwa)
Judicial Member

(Rakesh Kumar)
Technical Member

RK-I