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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

Date **25/01/2012**

Appeal No. E/2027/2005 - EX[DB]

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

To :
M/S AMAR WHEELS PVT.LTD.
C-194,PHASE-VII,FOCAL POINT LUDHIANA

M/S AMAR WHEELS PVT.LTD. Appellant

Vs

C.C.E. LUDHIANA Respondent

I am directed to transmit herewith a certified copy of **Final order No. A/50/ 2012 EX[DB]** dated 25-1-12 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. LUDHIANA
CENTRAL EXCISE HOUSE, 'F'
BLOCK, RISHI NAGAR,
LUDHIANA 141001 (PUNJAB)

2. Adv. / Consult
MR.K.K ANAND
A-5,BASEMENT,LAJPAT NAGAR-III NEW DELHI-24

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)

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI

PRINCIPAL BENCH, COURT NO. III

Excise Appeal No. 2027 of 2005

[Arising out of Order-In-Appeal No.184/CE/LDH/2005, dated 29.03.2005 issued by CCE, Ludhiana]

For approval and signature:
Hon'ble Ms. Archana Wadhwa, Judicial Member
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?	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. Amar Wheels P.Ltd. — Appellants
Vs.
Commissioner of Central Excise Ludhiana — Respondent

Coram: Hon'ble Ms. Archana Wadhwa, Judicial Member
Hon'ble Mr. Mathew John, Technical Member

Appearance:
Shri K.K.Anand, Adv. for the Appellants
Shri I.Baig, DR for the Respondent

Date of Hearing : 17.01.2012

FINAL **ORDER NO . A/50/2012-EX(BR) DATED**

Per Ms. Archana Wadhwa:

As per facts on record, the appellant is a manufacturer and exporter of cycle parts. During the course of manufacture, certain waste and scrap arises. Revenue has taken a view that as the appellant was working under Notification No.41/2001-CE(NT), dtd. 26.06.01, they are liable to discharge duty on the waste as ~~quoted~~ required in para 4(c) of the said Notification. The said para reads as under:-

> *"4(c) any waste arising from the processing of materials may be removed on payment of duty as if such waste is manufactured or processed in the factory of the manufacturer or processor;"*

2. On the above basis, the demand stands raised against the appellant in respect of waste and scrap cleared during the period September, 2003 to January, 2004. The lower authorities have rejected the appellant's submissions in respect of the said waste and scrap being exempted under the SSI Notification.

3. After hearing both the sides, we find that the issue stands no more integra. The earlier orders of the Commissioner(Appeals) were in favour of the assessee and Revenue had challenged the same. While dealing with the Revenue's appeal, the Tribunal in the case of Amar Wheels P.Ltd reported in 2009(245)ELT736(Tri.-Del.) held that there is nothing in the Notification No.41/2001-CE(NT) to deny exemption ~~availment of benefit~~ to waste and scrap under any other Notification. As such by observing that in as much as the assessee was below the ceiling limit subscribed under SSI Notification, it stands held that the benefit of the same would be available to the assessee in respect of waste and scrap. Accordingly, the appeal filed by the Revenue was rejected.

4. In as much as the issue stands decided in respect of the same appellant in the Tribunal's judgement referred (supra), we follow the same and set aside the impugned order confirming

demand duty against the appellant. Appeal is allowed with consequential relief to the appellant.

(Pronounced in the open Court)

(Archana Wadhwa)
Member(Judicial)

(Mathew John)
Member(Technical)

RK-I