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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/1388-1389/2010 - EX|DB| Date **30/01/2012**

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

To :
M/S. A-ONE LAMINATORS (PVT.) LTD.
KHASRA NO.1220, RITHALA VILLAGE, NEW DELHI.

M/S. A-ONE LAMINATORS (PVT.) LTD. Appellant

Vs

C.E.E. DELHI I Respondent

I am directed to transmit herewith a certified copy of **Final order No. A/52-53/ 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. DELHI I
C.R. BUILDING, I.P. ESTATE, NEW DELHI 110002

2. Adv. / Consult
MR.S. JAINA & ASSOCIATES
84, DARYA GANJ, NEW DELHI.

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
14. M/S. DELHI LAMINATOR PVT. LTD., KHASRA NO. 903, NALA ROAD, INDL. AREA RITHALA, ROHINI, N. DELHI

Assistant Registrar
(Excise Appeal Branch)

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, COURT NO. III

Excise Appeal Nos. 1388 – 1389 of 2010

[Arising out of Order-in-Appeal No. 34/Cus/CE/DLH /2010 dated 26.2.2010 passed by the Commissioner of Central Excise(Appeals), Delhi I]

For approval and signature:

Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. Rakesh Kumar, Member (Technical)

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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

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M/s. A-One Laminators (Pvt.)Ltd. Appellants
M/s. Delhi Laminators Pvt. Ltd.

Vs.

Commissioner of Central Excise Respondent
Delhi

Appearance:
Ms. Seema Jain, Advocate for the Appellants
Shri N.Pathak, SDR for the Respondent

CORAM:
Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. Sahab Singh, Member (Technical)

Date of Hearing/decision : 23.01.2012

FINAL **ORAL ORDER NO . A/52-53/2012-EX (BR)**

Per Archana Wadhwa (for the Bench):

The short question involved in both the appeals is as to whether the modvat credit availed by the appellants in respect of inputs used in the manufacture of final products, which stands cleared as final products is required to be denied to them on the ground that the activity of process of lamination undertaken by them does not amount to manufacture.

2. Without expressing any opinion on the issue as to whether the process of lamination amounts to manufacture or not, we find that undoubtedly the final product, in which the inputs were used stand cleared by the appellant on payment of duty. As such, whatever credit the appellant has availed, stands reversed by them, by utilising the same on payment of duty on the final products.

3. The issue is no more res integra and stands decided by various decision of the Tribunal. Reference can be made to the Tribunal's decision in the case of Heat Shrink Technologies Ltd. vs. CCE, Mumbai reported as [2007 (220) ELT 437 (Tri-Bom)]. It was held in the said judgment that even if process carried out by the appellant does not amount to manufacture, credit would still be admissible since the duty has been paid on the final product. To the similar effect is the decision of Hon'ble Gujarat High Court in the case of CCE vs. Creative Enterprises as reported in [2009 (235) ELT 785 (Guj)] wherein it was

observed that denial of Cenvat credit on inputs on the ground that activity does not amount to manufacture is not appropriate. We find that there is catena of judgements settling the issue in favour of the appellant. As such, we, without multiplying the citations, we follow the ratio of law decided by the precedent decision and set aside the impugned order and allow both the appeals with consequential relief to the appellants.

(Pronounced in the open Court)

(Archana Wadhwa)
Member(Judicial)

(Sahab Singh)
Member(Technical)

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