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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 **13/03/2012**

Appeal No. E/1105/2010 - EX[DB]

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

To :
M/S. SHUBHLABH ISPAT P. LTD.
PLOT NO.33, PHASE-II, SILTARA INDUSTRIAL AREA,
SILTARA, RAIPUR

M/S. SHUBHLABH ISPAT P. LTD. Appellant
Vs
C.C.E. RAIPUR Respondent

I am directed to transmit herewith a certified copy of **Final order No.A/262 2012 EX|DB|** dated 09-3-12 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. RAIPUR
CENTRAL EXCISE BUILDING,
DHAMTARI ROAD, TIKRAPARA,
RAIPUR 492001.

2. Adv. / Consult
MR.BIPIN GARG
B-1/1289,A-VASANT KUNJ, 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

Assistant Registrar
(Excise Appeal Branch)

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

Excise Appeal No. 1105 of 2010

[Arising out of Order-in-Appeal No. 46/RPR-I/2010 dated 16.2.2010 passed by the Commissioner of Central Excise(Appeals), Raipur (CG)]

For approval and signature:

Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. Mathew John, 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?	:	Yes
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. Subhlabh Ispat Pvt. Ltd. — Appellants

Vs.

Commissioner of Central Excise Raipur — Respondent

Appearance:

Ms. Sukriti Das, Advocate for the Appellants
Shri N. Pathak, SDR for the Respondent

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

Date of Hearing/decision : 29.02.2012

FINAL **ORAL ORDER NO. A/262/2012-EX(BR)**

Per Archana Wadhwa (for the Bench):

Duty amount of Rs.20,834/- stands confirmed against the applicant in terms of provisions of Rule 6 (3) (b) on the ground that the slag, which comes into existence as waste product during the manufacture of MS ingots, stands cleared by the applicant without payment of duty. As such, they are required to reverse 10% of the value of the said products inasmuch as no separate records were maintained by them in respect of the credit availed by them on the inputs.

2. We take into consideration Boards clarifications F. No. B-4/7/2000-TRU dated 3.4.2000 clarifying that the Cenvat credit shall be admissible in respect of that amount of inputs contained in any of the aforesaid waste, refuse or by-product. To the similar effect is Tribunal's decision in the case of Aparant Iron and Steel Pvt. Ltd. vs. CCE. Goa as reported in [2007 (208) ELT 255 (Tri-Mum)] and in the case of JSW Steel Ltd. vs. CCE, Belgaun as reported in [2006 (205) ELT 896 (Tri-Bang)].

3. Further, Tribunal in the case of Tata Metaliks Ltd. vs. CCE, Pune II as reported in [2010 (261) ELT 971 (Tri-Mum)], after taking into consideration the Bombay High Court decision in the case of Rallis India Ltd. vs. Union of India [2009 (233) ELT 301 (Bom)] has held that the by-product or waste arising during the course of manufacture and cleared without payment of duty, the appellant are

not liable to pay 10% of the value in terms of Rule 6(3)(b) of Central Excise Rules. To the same effect is Tribunal's decision in the case of Vikram Ispat Ltd. [2007 (211) ELT 60 (Tri-Mum)] and in the case of Narmada Gelatines Ltd. vs. Commissioner [2009 (233) ELT 332 (Tri)].

4. Inasmuch as the issue stands decided by the above referred decision of the Tribunal as also of the Hon'ble High Court, we find no justification for confirming the demand against the appellant. Accordingly, the impugned order is set aside and appeal allowed with consequential relief to the appellant.

(Pronounced in the open Court)

(Archana Wadhwa)
Member(Judicial)

(Mathew John)
Member(Technical)

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