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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/663 /2008&E/2493/2007 - EX[DB]

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

To :
M/S SWARAJ ENGINES LTD.
PLOT NO.2, INDUSTRIAL AREA, FOCAL POINT,
PHASE-IX, S.A.S.NAGAR,
MOHALI-160062 (PB)

M/S SWARAJ ENGINES LTD. Appellant

Vs

C.C.E. CHANDIGARH Respondent

I am directed to transmit herewith a certified copy of **Final order No.** A/273-274/ **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. CHANDIGARH
C.R. BUILDING, PLOT NO. 19,
SECTOR 17-C, CHANDIGARH
160017

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)

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

PRINCIPAL BENCH, COURT NO. III

Excise Appeal Nos. 663 of 2008 & 2493 of 2007

[Arising out of Order-In-Appeal No.170/CE/CHD/2008, dated 22.02.2008 issued by CCE, Chandigarh]

Date of Hearing/decision : 28.02.2012

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 Swaraj Engines Ltd. — Appellants
Vs.
CCE, Chandigarh — Respondent

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

Appearance:
Shri Amit Jain, Adv. for the Appellants
Shri N.Pathak, DR for the Respondent

FINAL **ORDER NO .** A/273-274/2012-EX.(BR)

Per Ms. Archana Wadhwa:

After hearing both the sides, we find that the appellants are engaged in the manufacture of engines supplied to M/s Punjab Tractors Ltd., Mohali. As per the contract entered into by them, the payment for such engines is to be made by M/s Punjab Tractors Ltd. "BY CHEQUE 90 DAYS AFTER THE RECEIPT OF MATERIAL".

2. The issue involved is that as the payment is being received by the appellants after a period of 90 days, the agreed upon price between the appellants and their buyers is inclusive of interest amount. As such interest for ~~about~~ the said period of 90 days is required to be deducted from the assessable value. The appellants have paid duty on the assessable value, which is lower than the total price charged by them from M/s Punjab Tractors Ltd. Scrutiny of the invoices revealed that both the prices stands reflected in the invoices issued by them, though there is no separate mention of the interest amount.

3. Commissioner(Appeals) while deciding their appeal has observed as under :-

> *"Interest on receivables although is a permissible deduction under section 4 of the act but it should be clearly identifiable from the records as such. As discussed above the purchase orders and the central excise invoices do not indicate at all that the deduction availed by the appellant from the unit price represents the deduction towards the interest on receivables. Further the appellant have not submitted any other documentary evidence like financial returns of their unit to substantiate their submission that what they had claimed deduction is interest on receivables. As per the established principles of accounting interest on receivables is shown as income in the Profit & Loss account of the company. The appellant are an established company and in case if their submission was correct they could have substantiated the same by submitting the relevant financial returns in support of verification of their claim. The simple reason that they have not done so is that they do not have any such information and therefore their claim of deduction as interest on receivables from the unit price is devoid of any merit."*

4. As is seen from above, there is no dispute about the legal issue that interest on receivables is required to be deducted from the total value charged from the customers. The dispute revolves around the

basis of quantification of such interest. From the invoices examined by us, we have noticed that the assessable value adopted by the appellants for payment of duty is only marginally less than the total price received by them from their customers. It is reasonable to presume that the difference between the two is on account of interest. But we find that no basis for arriving at quantum of interest stands disclosed by the appellants either before the lower authorities or higher appellant forum. Ld. Advocate fairly agrees that such basis is not available with him at this stage and submits that if the matter is remanded, they will be able to assess the quantum of interest and the basis for the same.

5. Ld. DR agreed ~~aggrieved~~ with the above course of action.

6. In view of the above, we set aside the impugned order and remand the matter to original adjudicating authority for the limited purpose of examining the basis for quantification of interest ~~and if found,~~ and if found correct, to allow the same. The appellants would submit the documentary evidence or any other evidence in support of their plea of quantum of interest arrived at by them for the purposes of deduction in the Central Excise invoices.

7. Both the appeals are allowed by way of remand.

(Pronounced in the open Court)

(Archana Wadhwa)
Member(Judicial)

(Mathew John)
Member(Technical)

RK-I