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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 16/03/2012

Appeal No. E/1815/2005 - EX[DB]

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

To :
C.C.E.CHANDIGARH
C.R.BUILDING SECTOR-17C,CHANDIGARH

C.C.E.CHANDIGARH Appellant
Vs
Respondent
M/S ALCON WIRES & CABLES INDUSTRIES

I am directed to transmit herewith a certified copy of **Final order No. A/284/ 2012 EX[DB]** dated 12-3-12 passed by the Tribunal under **Section 35-C(1)of Central Excises Act, 1944**

Assistant Registrar
(Excise Appeal Branch)

Copy to :

1. Respondent
M/S ALCON WIRES & CABLES INDUSTRIES
A-27,FOCAL POINT RAJPURA

2. Adv. / Consult
MR.J.P.KAUSHIK
A-14/3, SFS FLATS, SAKET, NEW DELHI-110017

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 & SERVICE TAX
APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.

Date of Hearing : 21.2.2012

Excise Appeal No. 1815 of 2005

[Arising out of the Order-in-Appeal No. 61/CE/CHD/2005 dated 25.2.2005 passed by the Commissioner (Appeals), Central Excise, Chandigarh]

Coram:

Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Shri Mathew John, Member (Technical)

1.	Whether Press Reporter may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	Yes
2.	Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	No
3.	Whether their Whether their Lordships wish to see the fair copy of the order?	Seen
4.	Whether order is to be circulated to the Department Authorities?	No

CCE, Chandigarh — Appellant

Vs.

M/s Alcon Wires & Cables Industries — Respondents

Appearance:

Appeared for Appellant : Shri I. Baig, A.R.

Appeared for Respondent : Shri J.P. Kaushik, Advocate

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

FINAL Order No. A/284/2012-EX(BR) dated............

Per **Mathew John :**

The Respondents were manufacturing aluminum wires and copper wires from Aluminum rods and copper rods. They had availed Cenvat credit of duty paid on their inputs namely, aluminum rods and copper rods and paid excise duty on their final products namely wires using such credit. The dispute is for the period August 2003 to July 2004.

2. The Hon'ble Apex Court in the case of **CCE Vs. Technoweld Industries**-2003 (155) ELT 209 (SC) had held that drawing of wires for wire rods does not amount o manufacture. So Revenue was of the view that the Revenue could not have taken Cenvat credit on inputs used and passed on such credit to the buyers of wires. So Revenue issued a Show Cause Notice to the Respondents which was adjudicated confirming the demand along with interest and penalties. On appeal the Commissioner (Appeal) set aside the adjudication order relying on certain decisions of the Tribunal. Aggrieved by the order Revenue has filed this appeal.

3. We have heard arguments on both sides.

4. We find that the Parliament by The Taxation Laws (Amendment) Act, 2006 amended Rule 16 of Cenvat Credit Rules, 2004 with retrospective effect from 29-05-2003 to 08-07-2004 to validate Cenvat credit taken by wire drawing units and the duty payment passed on by such units by paying duty on final products using such credit. CBEC has also issued Circular No. 831/08/2006 dated 26-07-06 advising the field formations about the amendment and asking them to adjudicate all pending cases taking into account the new law.

5. In view of the retrospective amendment made by the parliament nothing survives in this dispute and hence the appeal filed by Revenue is rejected.

(Archana Wadhwa)
Member (Judicial)

(Mathew John)
Member (Technical)

RM