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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/1251/2012 - EX[DB]

Dated: **30/05/12**

Assistant Registrar
C.E.S.T.A.T. New Delhi
To,**Ntf India Pvt Ltd**
Plot No. 49, Sec-3, Imt, Manesar, Gurgaon

Ntf India Pvt Ltd (Appellant)

VS

C.C.E.-Delhi-iii (Respondent)

I am directed to transmit herewith a certified copy of **Final Order No.631/12/EX|DB|** dated 23/5/2012 passed by the Tribunal under section **35-C(1) of the Central Excise and Salt Act, 1944**

Assistant Registrar
EXCISE Appeal Branch

Copy To,
1. Respondent
C.C.E.-Delhi-iii
UDYOG MINAR...VANIJYA NIKUNJ... UDYOG VIHAR...PHASE-V, DELHI,122016
2. Advocate(s) / Consultant(s):
SUMIT KUMAR GAUR, ADVOCATE
E/122, PATEL NAGAR-II,
GHAZIABAD-201001.

3. C.D.R
4. Bar Association, CESTAT, New Delhi

5. Director Publications, Customs, Excise. I.P. Estate, New Delhi

6. M/s Centax Publications 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. Gaurd 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.
Principal Bench, New Delhi

COURT NO. I

DATE OF HEARING/DECISION : 23/05/2012.

Excise Appeal No. 1251 of 2012

M/s NTF (India) Pvt. Ltd. — Appellant

Versus

CCE, Delhi – III, Gurgaon — Respondent

[Arising out of the Order-in-Appeal No. 37/BK/GGN/2011 dated 31/01/2012 passed by The Commissioner (Appeals), Central Excise, Delhi – III.]

Hon'ble Shri Justice Ajit Bharihoke, President
Hon'ble Shri Rakesh Kumar, Member (Technical)

1.	Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	:
2.	Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	:
3.	Whether their Lordships wish to see the fair copy of the order?	:
4.	Whether order is to be circulated to the Department Authorities?	:

Appearance

Shri Sumit Kumar Gaur, Advocate – for the Appellant.

Shri Nagesh Pathak, Authorized Representative (DR) – for the Respondent.

CORAM : **Hon'ble Shri Justice Ajit Bharihoke, President**
Hon'ble Shri Rakesh Kumar, Member (Technical)

FINAL Order No. A/631/2012-EX (BR)

Per. Shri Rakesh Kumar :-

The appellant are engaged in manufacture of auto parts chargeable to Central Excise duty under sub-heading 8708.00 of the Central Excise Tariff. The period of dispute is April 2008 to March 2009. In respect of clearances of auto parts manufacture by them to Maruti Udyog Limited, they subsequently received some additional amount due to upward revision of price from retrospective effect and on receipt of the differential price, they paid duty on the same under supplementary invoices. The point of dispute is as to whether on the differential duty paid under supplementary invoices on account of upward revision of price, from back date, the appellant would be liable to pay interest as per the provisions of Section 11AB. The Assistant Commissioner being of the view that they would be liable to pay interest, confirmed the demand for interest under Section 11AB, amounting to Rs. 3,44,245/- vide order-in-original dated 30/09/2010 passed by him. The order of the Assistant Commissioner was upheld by the Commissioner (Appeals) vide order-in-appeal dated 31/01/12 against which this appeal has been filed.

2. Heard both the sides.

3. Shri Sumit Kumar Gaur, Advocate, the learned Counsel for the appellant relying upon the judgment of Hon'ble Karnataka

High Court in the case of **CCE, Bangalore – III vs. Bharat Heavy Electricals Ltd.** reported in **2010 (257) E.L.T. 369 (Kar.)** pleaded that the appellant are not liable to pay the interest on the differential duty. He, therefore, pleaded that the impugned order is not correct.

4. Shri Nagesh Pathak, the learned Senior Departmental Representative, defending the impugned order pleaded that the issue involved in this case is squarely covered by the judgment of Apex Court in the case of **CCE, Pune vs. SKF India Ltd.** reported in **2009 (239) E.L.T. 385 (S.C.)** and also in the case of **CCE vs. International Auto Ltd.** reported in **2010 (250) E.L.T. 3 (S.C.)**. Learned AR further submitted that the Hon'ble Karnataka High Court in its subsequent judgment in the case of **CCE, Bangalore – III vs. Presscom Products** reported in **2011 (268) E.L.T. 344 (Kar.)** had taken a view contrary to its earlier judgment in the case of **CCE, Bangalore – III vs. Bharat Heavy Electricals Ltd.** (supra), wherein Hon'ble High Court has observed that the judgment in case of **CCE, Bangalore – III vs. Bharat Heavy Electricals Ltd.** (supra) is contrary to the law laid down by the Apex Court as that the judgment does not take into consideration the explanation to sub-Section 11A (2B) and as such it is a "*per in curium*" decision. He, therefore, pleaded that there is no infirmity in the impugned order.

5. We have carefully considered the submissions from both the sides and perused the records.

6. The issue involved in this case is squarely covered against the appellant by the Apex Court's judgment in the case of **CCE, Pune vs. SKF India Ltd.** (supra) and **CCE vs. International Auto Ltd.** (supra). In view of this, there is no infirmity in the impugned order. The appeal is dismissed.

(Dictated and pronounced in the open court)

(Justice Ajit Bharihoke)
President

(Rakesh Kumar)
Member (Technical)

PK