TELEGRAM : CEGCANAL
Website : www.cestat.gov.in

REGISTERED / AD
Mail : cestat08@gmail.com

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL**
**PRINCIPAL BENCH, WEST BLOCK NO.2, R.K.PURAM, NEW DELHI-110066**
**EXCISE APPEAL BRANCH**

**CROSS Application No. :** E/CROSS/197/2005
**Appeal No. :** E/1706/2005-EX[DB]

Dated: **30/07/2012**

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

**C.C.E.ROHTAK**
17-P,Sector-1,Rohtak Haryana

**C.C.E.ROHTAK** (Appellant)

**VS**

**VIDYA ISPAT UDYOG PVT.LTD.** (Respondent)

I am directed to transmit herewith a certified copy of Final Order No. **A/878/2012-EX[DB]** dated **24/07/2012** 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**
**VIDYA ISPAT UDYOG PVT.LTD.**
C/o Sh Johan Jaccob Director, House No 243,
Opposite Adarsh Bal Niketan surinder colony,
Jalandhar colony, Hissar,Haryana.

**2. Advocate(s) / Consultant(s):**

**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.

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No.2, R. K. Puram, New Delhi.
Court No. 1

Date of hearing/decision: 24.07.2012

**Hon'ble Sh. Justice Ajit Bharihoke, President**
**Hon'ble Sh. 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 should 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 Departmental authorities? | |

**Excise Appeal No. 1706 of 2005 & Cross Objection No. 197 of 2005**

(Arising out of order in appeal No. 87/AKG/RTK/2005 dated 21.02.2005 passed by the Commissioner (Appeals), Central Excise, Gurgaon).

CCE, Rohtak — Appellants

Vs.

M/s Vidya Ispat Udyog Pvt. Ltd. — Respondent

Present Sh. R.K. Verma, AR for the appellants.
Present Sh. C.S. Arya, Consultant for the respondent.

**Coram:** **Hon'ble Mr. Justice Ajit Bharihoke, President**
**Hon'ble Sh. Rakesh Kumar, Member (Technical)**

FINAL ORDER NO. A/878/2012-Ex (BR)

**Per: Justice Ajit Bharihoke (Oral):**

The department has preferred this appeal against order-in-appeal No. 87/AKG/RTK/2005 dated 21.02.2005 whereby the Commissioner (Appeals) set aside the order-in-original confirming the cumulative duty demand in respect of five show cause notices amounting to Rs. 72,12,803/- with interest and equal amount of penalty and remanded the matter back to the adjudicating authority for taking appropriate decision in the matter after the assessee's abatement application is/are decided by the competent authority.

2. Sh. C.S. Arya, ld. Consultant submits that subsequent to the order of remand the concerned Commissioner vide order dated 30.05.2006 has decided the claim of the respondent –assessee for abatement to the tune of Rs. 5299907/- for the period w.e.f. 01.01.1999 to 30.12.1999 which is covered under the period of show cause notice. Shri Arya submits that the ld. Commissioner has disallowed abatement claim to the tune of Rs.3942771/- against which the respondent-assessee has preferred an appeal being Excise Appeal No. 2832 of 2006 titled as Vidya Ispat Udyog vs. CCE, Rohtak, that appeal is yet to come for regular hearing.

3. In view of the above, ld. AR for the department has fairly conceded that since a huge amount of abatement has been allowed, the duty demand raised by show cause notice has to be re-assessed by the adjudicating authority. Therefore, the instant appeal has become infractuous.

4. In view of factual matrix detailed above, we are of the opinion that the duty demand has to be re-adjudicated in the light of the abatement claim allowed by the Commissioner. As such we are not inclined to interfere with the impugned order of Commissioner (Appeals) remanding the matter back to the adjudicating authority for decision afresh in the light of the abatement claim allowed by the Commissioner.

5. Appeal as well as Cross Objection are disposed of accordingly.

(Justice Ajit Bharihoke)
President

(Rakesh Kumar)
Member (Technical)

Pant