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

Excise Appeal No. E/2463/2007-Ex[DB]
[Arising out of Order-In-Appeal No. 168/GRM/CE/JPR-I/2007 dated 11.06.2007 passed by Commissioner(Appeals) Jaipur]

For approval and signature:
Hon'ble Mr. S.K. Mohanty, Member (Judicial)
Hon'ble Mr. B. Ravichandran, 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?	

M/s. Polycon International Ltd. ...Appellant
Unit-II

Vs.

C.C.E. Jaipur-I …Respondent

Appearance:
Ms. Neha Meena, (Advocate) for the Appellant
Mr. R. K. Mishra DR for the Respondent

CORAM:
Hon'ble Mr. S.K. Mohanty, Member (Judicial)
Hon'ble Mr. B. Ravichandran, Member (Technical)

Date of Hearing/ Decision.13.01.2016

Final Order No. 56520 /2016

Per S K Mohanty:

The appeal is against order dated 11.06.2007 of Commissioner (Appeals-I) Jaipur. The dispute involved in the present appeal is the includability of value of corrugated boxes obtained free of cost from the buyers in the assessable value of excisable goods like PET jars, HDPE Tanks PVC profiles etc. manufactured and cleared by the appellant. The lower authorities held that the value of such corrugated boxes are to be added to arrive at the correct transaction value in terms of Section 4 read with Rule 6 of Central Excise Valuation Rules, 2000.

2. The appellant contested such inclusion on the ground that the cost of packing materials obtained free of cost are not to be included in the assessable value and in this context, relied on the decision of Hon'ble Supreme Court in Hindustan Polymers vs CCE, reported in 1989 (43) ELT 165 (S.C.).

3. We have heard both the sides and examined the appeal records.

4. In the present case, the appellants obtained packing materials from their buyers and they are not adding the cost of packing material for determination of the assessable value. It is seen that they have been availing Cenvat Credit on such packing material. We find that the only claim of the appellant for non-inclusion of value of packing material is that the same is obtained free of cost. We find that the appellants availed cenvat credit on such items, which goes to show that they are essential inputs in the manufacture and sale of finished excisable goods. In such context, the claim of the appellant is not tenable. Further there is no plea to the effect that the excisable goods are otherwise marketable without such packing.

5. Considering the above position, we find no merit in the present appeal and the same is accordingly dismissed.

(Operative portion of the order pronounced in the open court)

(**B. Ravichandran**)
Member(Technical)

(**S. K. Mohanty**)
Member (Judicial)

Neha