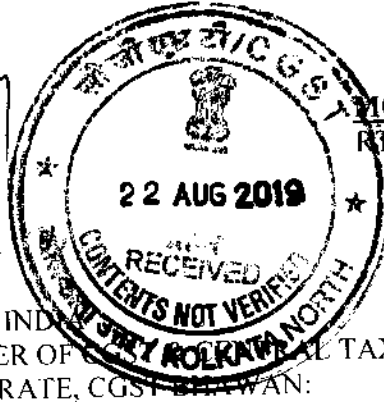


10009  
22/8/19

*Samiran Roy*  
22/8



**MOST URGENT**  
**RTI MATTER**

GOVERNMENT OF INDIA  
OFFICE OF THE PRINCIPAL COMMISSIONER OF CENTRAL TAXES  
KOLKATA- NORTH COMMISSIONERATE, CGST SHULK BHAWAN:

1<sup>ST</sup> FLOOR: 180, SHANTIPALLY, RAJDANGA MAIN ROAD, E.M BYPASS KOLKATA-700107

C. No. V(30)119/RTI/HQ/CGST & CX/Kol-North/2019/

Dated: -

To  
Shri Ram Ratan Roy,  
Joint General Manager (Credit Control),  
Electrosteel Castings Limited,  
G K Tpw, 19, Camac Street,  
Kolkata-700017.

Sir/Madam,  
Sub: Information under the RTI Act, 2005 — Regarding.

Please refer to your RTI application dt. 12.07.2019 filed received by this Commissionerate on 18.07.2019, which was transferred by the CPIO & Assistant Commissioner, CCO, Kolkata vide their letter under F.No. V(30)158/ Pr. CCO / CGST & CX / RTI/ July-19/Kol/12459 dt. 17.07.2019. Subsequently the said RTI application was registered at this office vide Registration No. 107/RTI/Kol-North/19 dt. 22.07.2019.

The desired information as received from the Assistant Commissioner (Adjn), CGST & CX, Kolkata North Commissionerate on 29.07.2019 under C.No.V (15)04 / North CGST & CX /Adjn/RTI/ 2017/12178 dt. 29.07.2019 is enclosed herein.

If you are aggrieved or dissatisfied with the above information, you may prefer an appeal within 30 (thirty) days of receipt of the information before the 1<sup>st</sup> Appellate Authority namely Sri Gaurav Sinha, Additional Commissioner, CGST & CX, Kolkata-North Commissionerate, O/o The Principal Commissioner of CGST & CE, Room No. 102, Kendriya Utpad Shulk Bhawan, 180, Shantipally, Rajdanga Main Road, Kolkata-700107.

Encl- 23 (twenty) Sheets.

Yours faithfully,

*Samiran Roy*

(Samiran Roy)  
CPIO & Assistant Commissioner  
CGST: Kol-North Comm'te

Dated **22 AUG 2019**

C. No. As above/  
Copy forwarded for information to: -  
/14338

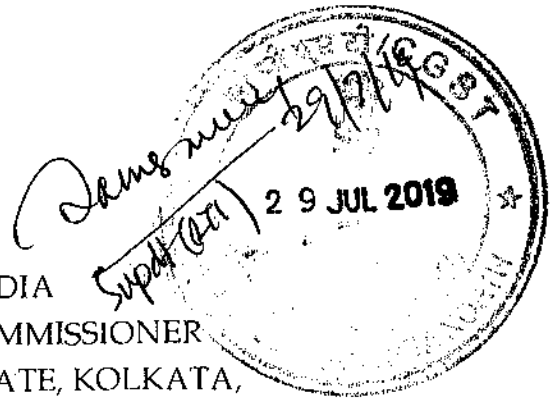
1. The Assisnat Commissioner (Systems), Computer Cell, CGST & CX, Kolkata North Commissionerate with a request to upload the RTI application submitted by Shri Ram Ratan Roy dt. 12.07.2019 along with the desired information as mentioned above (enclosed twentynine sheets).
2. The CPIO & Assistant Commissioner, CCO, O/o the Pr. Chief Commissioner CGST & CX, Kolkata Zone.

*Samiran Roy*  
(Samiran Roy)

CPIO & Assistant Commissioner  
CGST: Kol-North Comm'te



GOVERNMENT OF INDIA  
OFFICE OF THE PRINCIPAL COMMISSIONER  
SERVICE TAX - I COMMISSIONERATE, KOLKATA,  
KENDRIYA UTPAD SHULK BHAWAN,  
180, RAJDANGA MAIN ROAD, SHANTIPALLY, KOLKATA - 700 107.



C.No. V(15)04/NORTH CGST & CX/ADJN/RTI/2017/12178

DATE:-

29 JUL 2019

To  
The CPIO & Assistant Commissioner,  
HQ, RTI Cell,  
CGST & Kolkata North Commissionerate,  
Kolkata,

Sub: RTI application dt.12.07.2019 filed by Shri Ram Ratan Roy, Kolkata-700017 -  
Reg


\*\*\*\*\*

Please refer to the letter C.No.V(30)119/RTI/HQ/CGST&CX/Kol North/2019  
/11455 dated. 23.07.2019 on the above mentioned subject.

This office feels that the information sought under serial no.1(a) of the application  
under RTI Act, 2005 doesn't qualify as information under section 2(f), 2(i) and 2(j) of the  
said Act.

As per requirement under serial no. 1(b) of the same application, the copies of the  
note sheets of the relevant file are provided herewith with request to furnish the same to  
the applicant on payment of requisite fees in compliance with the Rule 4(a) of Right to  
Information Rules, 2012

Encl: As stated above (22 sheets)

  
(S. ROY) 29/7/19

ASSISTANT COMMISSIONER (ADJN)  
CGST & CX KOLKATA NORTH COMMISSIONERATE

A Show Cause Notice dated 06.10.2006 has been issued by the DGCEI, Kolkata against M/s. Electro Steel Casting Ltd., 30, B.T.Road, Khardah, 24 Pgnos. (N) W.B. alleging incorrect availment of Notification No. 6/2002-CE dtd. 1.3.2002 as amended by Notfn. No. 47/2002-CE dtd. 6.9.2002 as well as contravention of Rules 4, 6, 8 & 12 of the C.E. Rules 2002 and Rule 6 of Cenvat Credit Rules 2002 / 2004 during the period from September 2002 to March 2005 demanding for recovery of Central Excise Duty and Education Cess of various amounts as shown in the Pages 380 to 383 of the Show Cause Notice

There are in total 8(eight) Notices including M/s. Electro Steel Casting Ltd. at Sl. No. 1.

Submitted for kind perusal please.

*19/1/06*

*Supdt. (Adjn)*

*As desired, the file with the SCN may be forwarded to J.C. for his kind perusal.*

*Sl. No. 1*

*AC (Adjn)*

*Shall be referred to Commissioner's observation for file to AC (A/E) in*

*18/2/06*

*as directed*

*perusal of J.C. (A/E)*

*20/2/06*

*18/7*

*Supdt. (Adjn)*

PS. M/s Electro Steel Casting Ltd's letter dated 09.11.06 against DGCEI's SCN dtd. 06.10.2006.

The Notices, in their letter, stated that in order to effectively & properly deal with the allegations in the SCN and there-after file comprehensive replies, they are yet to receive all the asked upon as well as the non-relied upon seized documents for the purpose of inspection, and as such they seek return of the aforesaid documents for inspection. They have also sought extension of time to atleast 12 weeks after completion of the inspection process as stated above, for submission of their reply.

Further, the Commissioner's note on the 1st letter regarding action to be taken as

*Contd.*

Copy (1), New Delhi: D.O. letter, dtd. 08.09.2006, may please be seen.

Accordingly, necessary instructions may please be issued to all the SCN issuing authorities concerned.

Submitted for perusal & order please.

*[Signature]*

*[Signature]* (Adm)

i) Letter of Member (CX & ST) dt. 8.9.06, as received under C.C. EU's letter no. V(8)10/CE/CC/Kol/Adm/2004/Part-IV dt. 8.11.06 [regarding providing back records/copies of documents etc. under seizure] - has been circulated to all Divisional Ds/As & to AT, AE (H.R.) under endorsement of the Addl. Commr. from file no. - V(15)110-06/Adm/Kol-III/05/PT. dt. 13.11.06.

ii) Since the SCN has been issued ADG, DACEI, EE & the case investigated by them & seized records etc are there, letter in response to the notice dt. 09.11.06 is placed up for issuance if okay.

Submitted pl.

*[Signature]*  
SC Adm  
13/11/06

Addl. Commr

Letter to AS, CEI may be issued

Compl. was

Sample put up 14/11

As directed fair copy put up for sign. please

*[Signature]*  
14/11

Compl. was  
14/11

Separate letter to the as no question of endorsement

By CCI letter to the  
Letter to notice sent separately as advised above. 15/11/06

DGCEI's letter dtd. 21.11.06 stating non-receipt of enclosures to this Office letter dtd. 14.11.06.

The enclosures are being sent again.

For perusal & sign. please.

24/11/06

Supdt (Adn.)  
24/11

By I. Benjamin, Jr. Dy. Commr.  
enclosed immediate despatch

Letter despatched & O/c placed in file.

24/11/06

Ref: File for perusal of CE.

As desired the file is put up A.  
Notice requested for inspection of records in possession of DGCEI. Accordingly DGCEI & Dy. Commr. have been informed.

To-day we have received copy of letter of DGCEI asking the notice to start inspection of records from 1st week of JAN. 2007.

So no action is pending at this stage here.

For PRADIP (Adn.)  
24/12/06

A.C. (Adn.)

After the receipt of the demands we may ask the party to submit the reply to the SCN. so that the case can be taken up for adjudication.

and  
24.12.06

Add. Commissioner. I. Benjamin  
29/12

A.D.G., DGCEI's letter dtd. 18.01.07 placed opposite.  
The letter reveals that SCNs dated 03.06.05, 06.08.05, 22.03.04 and this present SCN dtd. 06.10.06 may be taken up for adjudication by the proper authority.  
Submitted please.

1/10/07

~~Suptt (Adjn)~~

As directed by the Suptt., the letter dtd. 18.01.07 has been taken out from this file & placed in No. V(15) 20/CE/Adjn/Commr./Kol.-II/05.

1/10/07

As directed by Commissioner of C.E., Kol.-II, P.H. fixed by C.E. on 24-4-07 at 11:45 Hrs

Bank 3-4-07

Suptt (Adjn.) / A.C. (Adjn.)

Letter to ADG (DGCEI) may be issued requesting ~~to~~ to supply the documents as sought by the a/c.

1/10/07

1/10/07

Adl.

As directed a letter has been prepared requesting a/c to collect documents from D.G. CEI

1/10/07

AC (Adjn.)

A Compendium is moved to all the 8 notices pointing out the correct DGCEI F.No.

Submitted pl.

2/4/07

N.C. (final)

Handwritten signature/initials

Handwritten note on the left margin

Ref: Request for adjournment of P.H. fixed on 24.4.07.

- i) Submission of the notice placed opp. [DGCEI-500/4/2004-07] Copy of the same appears to have been endorsed to the ADG, DGCEI as many relied upon documents are required by the notice for inspection etc.
- ii) The submission includes prayer for adjournment of P.H. on that ground. Reply to SCV is yet to receive.
- iii) It appears, we may again write to the ADG, DGCEI requesting suitable action at that end so that adjudication can be completed in the case that involves high stake of revenue. The SCV dates back to 06.10.2006 & the process of inspection of documents could have been completed by this time by mutual arrangement of the notice & DGCEI, who booked the case.

P1.

Commissioner

Let letter dt 5/4 - follow up with ADG (AE) - they may be asked to attend the PH on 24/4.

12/4/07

Handwritten note

5. That ADG, AE's letter dt 5.4.07 may be with ADG, DGCEI. Presence of Co.A. officer of AE at the time of P.H. etc etc put up pl.

(2/2)

be moved to DGCEI pl

Handwritten signature and date 19/4/07

PD Lodged on 24.4.07.  
 Break sheet in file.  
 Notice to complete inspection of items  
 from DBLEI office by 15.5.07 & to  
 Submit reply in a month thereafter - as  
 desired & agreed by notice, DBLEI approval & CCE.  
 24/7

Ref: Reply to the Notice: submitted on 8.7.07

M/s Director Steel Casting Ltd has not  
 to the Notice denying & disputing  
 with support of various documents.  
 notices (persons) have submitted in  
 the.

Now, based on the reply, prima  
 allegations are questioned & report  
 Commission (Adj. authorities) was  
 from investigation (DBLEI) in  
 of defence submissions.

As ordered, draft para  
 submitted @.

Jm  
 17/7/07

AC

Comments may  
 @ GCEI.

Copy



Non-receipt of DhCEI  
Reply to the notice - right

As decided by the Commissioner, adjudicating authority of the present case (booked by DhCEI, KZU), an inventory item-counts was asked from DhCEI against reply to the Notice dt. 6.10.2006 filed by Electrosteel Casting Ltd.

DhCEI was asked for the same under this office letter dt. 18-7-2007, endorsed by ADC as directed.

Nothing has been received from DhCEI so far.

A letter therefore may expedite the issue - because otherwise the procedure is going up towards apex of the case here.

pl.

may be 1 cr

Commissioner

8

2/11

21/11/07

Reminders issued to ADG, DhCEI, KZU by the ADC today & dispatched under memo. 11759 dt. 02.11.07 as directed by the Commissioner.

CALL BOOK transfer of the case - consideration reqd.

- i) Ref: Discussion with the Commissioner dt. 15.11.07.
- ii) The present SCN dt. 6.10.2006 involves demand on various points, including non-eligibility duty-exemption for storage & distributive storage beyond 'FIRST STORAGE POINT' under relevant notification [B/2002 dt. 13.02 - and amendment thereof]. It is on record that the Commissioner (Appeals) has issued two orders under Order-in-Appeal No. 52-60/06 dt. 21.7.2006 & then again Order-in-Appeal No. 76-96/KOL-III/06 dt. 25.9.06 - before issuing the DhCEI notice on 6.10.2006. In the said orders, the Commr. (Appeals) allowed the benefit of exemption on pipes (ch. 73) beyond 'FIRST STORAGE POINT'.
- iii) It is on record that the said Order-in-Appeal dt. 21-7-06 & 25-9-06 were appealed against to the Hon'ble CESTAT, Kolkata in Oct '06 & to this Commissionerate in the Deptt.

Contd -

Courts

v) In such a situation, in view of Circular no. 162/73/95-LX dt. 14.12.95, it appears the case may be considered for transfer to the CALL-BOOK till Hon'ble CESTAT's decision is available.

vii) T & R Branch, BB, who arranged for filing of appeals before the Hon'ble CESTAT against the said Order-in-Appeals of the Commr. (Appeals) has already been instructed by the Commissioner during discussion dt. 14.11.07 & 15.11.07 to be in constant vigil to represent the case suitably before Hon'ble Tribunal.

viii) It may also be mentioned that the investigation conducted to the notice's reply, which was sent for in July, 07, has not yet come. It is reported by DGCEI authority that the same is in process & would be sent accordingly.

ix) In view of the present situation, the case may be transferred to CALL-BOOK now if approved & so desired by the Commissioner.

In my view, the Order-in-Appeals are in favour of the notice/manufacture, M/S Electro Steel Casting Ltd on the question mentioned supra & the Hon'ble CESTAT's order if comes otherwise - would enable the Adj. Authority to decide the issue in favour of revenue.

Submitted for perusal & order pl.

The foregoing writings may kindly be signed.

(Signature)  
16/11/07

A.P. (Adin) Since the issue is pending before

CESTAT, Kolkata in appeal against the said two orders of the Commr. (Appeals) the present pending case cannot be adjudicated by the Commissioner. The said case may therefore kindly be permitted to be transferred to the Call Book if kindly approved pl.

Commissioner.

16/11/07

Ref: Reman of the Call-Book case:

- i) The case was transferred to the Call-Book by the Commissioner's order dt. 16.11.07 page 4.
- ii) After the Dept's appeal on the issue of exemption beyond 'first storage', Hon'ble CESTAT dismissed Dept's appeal & upheld Comptroller (App)'s orders that allowed the benefit to the assessee.
- iii) The Hon'ble CESTAT's order dt. 27.10.08 (Flagged 'X' app) was taken up to the Min. of Legal & Justice, Kolkata for opinion as to whether Dept. could prefer appeal against the Tribunal's order said above. And the opinion of L&J is that ~~Dept's~~ order of the Hon'ble Tribunal may be tested in appeal to the Hon'ble Calcutta High Court. [Flag 'Y']
- iv) So, since the issue is going to be agitated before the Hon'ble High Court by Dept after 2 successive defeats and the matter will remain sub-judice, the case may remain in the Call-Book as decided.
- v) Accordingly, in revised action, the case will remain in Call-Book only for timely disposal in future when it would be considered fit for delisting from Call-Book cases of the Commissioner.

Submitted for perusal & order pl.  
 The readings above may kindly be seen pl.  
 A/C (App) 14/1/09

In this case the Commissionerate is in the process of filing appeal before the Divisional Bench of the Tribunal per the legal opinion received from the Sd/- M.D. vide their letter dt. 5/1/2009. Kindly note for kind perusal pl. The said case may therefore be kept in Call Book as the same cannot be decided pending the judgment of the Tribunal in the matter.

*[Signature]*  
 Commissioner.  
 14/1/09.

14/1/09  
 A/C.

PUC placed opposite may please be seen.  
 Chief Commissioner of CE wanted to know the present status of the case and ordered Commr CE to discuss the case and decide the issue in Oct, 09.  
 The case is lying in Court Book as one of issues relating to demand was in ~~order~~ <sup>order</sup> Honble Court for which dep't's appeal has been dismissed by Honble Apex Court but the copy of the order has not yet been obtained. There are several other issues in the SCN for which demand has been proposed. So the matter cannot be decided at this stage. A status report as desired, if approved may be sent to C.C. @ and the Law Section may be requested to send copies of Honble Higher Court order and other related papers.

22/11/09  
 (cc: D.A.)  
 Supdt.

22/11/09  
 Commr. CE

Receipt -  
 F. NO - 1080/4/D. L. A / SC / 2006/1448 & 22X.  
 Civil appeal no <sup>15245/2009</sup> of 2009 (D. NO - 15245) 2009 in respect of Commr. of CE, KOT - III vs M/S Electro Steel Casting Ltd, placed opposite which is self explanatory, x put up for perusal and order p1.

22/11/09

ADL. KD - SI. No  
 In/Dat  
 Out/De

The case has been decided  
 The other demands may be

By... case can be taken out of CBook.  
 (Commr. Ady.)  
 10/11/09 - 11.30 am

30/11/09  
 30/11/09

15/52 - CE/Commw/adjn/101-111/2008

(P)

11

Taken out from Call Book on 30.x.2009.  
As per order of Commr. CE at prepage bottom  
PH notice issued.

Roy 21/09

PH was fixed on 10/11/08 at 11.30 AM. The notice  
has single for adjournment and accordingly  
the PH proposed to be fixed in the 1st week of  
Dec, 09. The representative of the notice intimating  
verbally the date to be fixed on 3-12-09 as the  
Advocate for this case may be available on that date  
only. Accordingly the next date of PH may  
be fixed on 3-12-2009 at 11.30 hrs, if approved

Roy 10/11/2009  
(J.C.R.A.P)

Commr. CE  
10/11/09

As discussed and directed by Commr CE, a draft-  
letter addressed to ADG, DGCEI is placed opposite  
requesting to deput one conversant officer from DGCEI  
to be present at the time of PH. Also comments,  
were sought from DGCEI on the judgements of  
regarding storage point.  
Put up for approval pl.

Roy 25/11/09

Commr CE  
25/11

Put up for approval pl.

Roy 25/11/09

Commr CE  
25/11

PH is on 3/12/09 at 11:30hs.  
P.H. Record sheet placed opposite pl.

Ray 3/12/09  
(अज्ञात स्थान पर)

Commr. CE

PH held - in part.  
Record placed opposite.  
next date for PH is 7/12/09 at  
3pm.

8  
8/12

PH notice issued  
Ray 4/12/09.

PH adjourned to 21/12/09 at 15.00hs due  
to ev is going in relation to AM's visit  
Record sheet placed opposite please.

Ray 21/12/09.

Commr CE

PH taken, record  
sheet alongside

8  
21/12

The order has not yet been passed, in view of changed Adjudication  
authority the case may be posted once more for hearing  
before him. As directed, the PH has been fixed on  
25/3/10 at 11.30hs.

Ray 8/3/2010.  
(S. RAY)  
Subdt CE

Commr CE

8/3/2010

XIII

PH notice issued on 8-03-2010 -

PH is on 25-03-10 at 11-30 hrs.

Brief facts of the case, written reply by noticee, submissions in writing during earlier hearings were placed in a file alongwith reply in a folder one placed.

Record sheet also placed opposite please.

Ray 24/03/2010

Commissioner. CE

(S.C. Ray)  
Suptt (Adjn.)

\* Discussed with Commr CE and as directed a doubt put up addressed to Commr CE put up, Tripathi is put up seeking information regarding acceptance of CSSTAT Order NO. 1380/2009 dt 12.11.09 for approval. This notice dtg PH. referred such judgement in favour of him.

Ray 21/4/10.

Commr. CE

(S.C. Ray)  
Suptt (Adjn.)

As no reply to this office letter dt 21-4-2010 has been received & a reminder is put up for approval of S.C. Ray pl.

Ray 4/5/10

Commr. CE

(S.C. Ray)  
Suptt. (Adjn.)

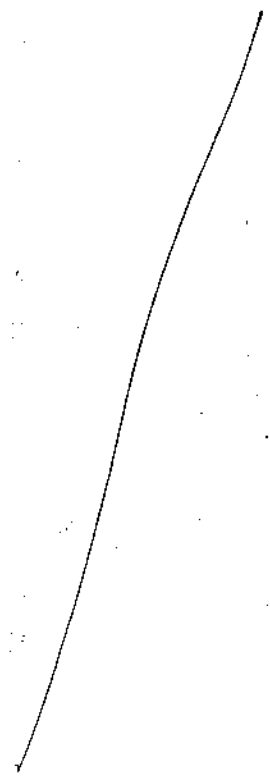
CESTAT reference to this office letter dated 04.05.10,  
 Addl Commr, CE, O/O the Commr. of Cus, CE & S.T,  
 West Church Compound, M.R. Palle Road, Tirupati  
 informed that Board vide letter in F.No. 385/5/09/  
 2010-JC dt 22-3-10 in fact that it has been decided  
 not to file Civil Appeal in the case of M/s dance  
 Industries contr. to CESTAT order NO. 1380/2009 dated  
 12-11-09.

Put up for information & further order please.

Ray 17/05/2010.  
 (B.C.R.A.P.)

Commr. CE

17/5/2010





V(15)52-CE/Commr/Adjn/Kol-III/06

Regarding applicability of exemption notification No. 06/2006-CE dated 01.03.06 for pipes used beyond the 'first storage place'; the Committee of Commissioners vide review order No. 35/Review/2010-11 dated 02.09.10 has preferred appeal against order-in-original No. 03-05/Commr/CEX/Kol-III /2010-11 dated 30.06.2010.

In view of the above mentioned review order, the show cause notice issued under DGCEI F.No. 02/MISC/KOL/05/7394-7401 dated 6.10.06 having one of the issues which is identical to the issue under the review order, may be transferred to call books till the finalization of the said issue.

*Handwritten:* 21/10/10

*Handwritten:* 21/10/10  
Subj (Adj)

*Handwritten:* Commr Kol III

*Handwritten signature:*

*Handwritten:* 21/10/2010

DGCEI, KZU, after causing nationwide investigation, raised the instant S.C.N. bearing No 02/Misc/KOL/05/7394-7401 dt 6.10.06. which mainly deals with two major issues:-

- i. Whether the pipes cleared before the first storage point are eligible for exemption under Notfn. No 6/2002 CE dt. 1.3.2002 as amended by 6/2006 CE dt. 3.2006
- ii. Whether the duty/amt collected in the name of Ex-cise duty is recoverable under Sec 11 D of C.A.

Periodical demand denying exemption of the pipes cleared ~~cleared~~ to projects having more than first storage tank, pipes cleared for distribution of water, were the Commissionerate and 3 such S.C.N. were

The impugned notice DGCEI F No. 02/MISC/KOL/7402 dated 06/10/2002, chiefly allowed collection of an amount @ 8% / 10% of the assessable value in guise of Excise Duty and proposed recovery of the same u/sec 11 D of the CEA '44.

The notice also alleged wrongful availment of exemption notification no. 6/2002- CE / 6/2006- CE on the grounds of breach of the condition of the notification due to :

- 1) non existence of water treatment plant
- 2) clearance against improper certificates
- 3) use of pipelines beyond 1st storage facility etc

and demanded duty at full rate u/sect 11A(1) of the CEA 1944.

Obviously demand u/sect 1D does not prevail where demand u/sect 11A(1) persists.

The detail of the issue in the sl no (3) above under demand u/sect 11A(1) is that the goods i.e. D.I.pipes in these cases were removed without payment of duty on the strength of such certificates but pipes in all cases were even intended to be used beyond the storage facility i.e. beyond first storage point and the same is not permissible in terms of the said notification No. 6/2006-CE dated 01-03-2006. From the records it is observed that the then Range Superintendent of Central Excise under different communications during March,06 to July,06 requested the notice not to clear goods availing exemption under Notfn. No. 6/2002-CE dated 01-03-2002, 47/2002 dated 6-09-2002 and also under Notification No. 6/2006-CE dated 01-03-2006 stating that the certificates of the competent authority do not clearly state as to whether the pipes would be used up to to the first storage facility or beyond first storage facility.

The notices filed appeal before Commissioner (Appeal-I), Kolkata against such communication of the Range Superintendent and Commissioner (Appeal-I) vide his order No's 52-60/Kolkata-III/06 dated 31-07-2006 and 76-96/Kol-III/06 dated 25-09-06 set aside all the orders of the original authority i. e. Range Superintendent and took a view that pipes intended for delivery to all the storage facilities are eligible for exemption under the notification No.s 6/2002-CE dated 01-03-2002, Notification no. 47/2002-CE dated 06-09-2002 and notification No 6/2006-CE dated 01-03-2006.

The department did not accept the Order in Appeals as aforesaid and moved to Hon'ble CESTAT, Kolkata by filing appeal. The findings of the Hon'ble CESTAT in the order M-301-330/A-1119-1150/Kol/2008 dated 27-10-2008 [2009(235)ELT(757) Tri Kol] is reproduced below,-

"We find that the required certificate have been obtained by the Respondents clearly showing that the designed pipes were needed for delivery of water from the plant to the storage facilities. Secondly, we find that the notification merely talks about storage facilities and there is no restriction that the water should be delivered only to the first storage point, as has been provided in the amended notification with effect from 01-03-07. It is obvious that the unamended notification would have to be interpreted to cover the impugned pipes which were needed to deliver water not only to the first storage point but also to the second and subsequent storage points, such as elevated storage reservoirs where the water is further treated for chlorination. If it was the intention of the Government to restrict the exemption for pipes up to the first storage point the notification should have been accordingly worded from the beginning. In the absence of such a restriction, the Respondents have executed the work order in respect of Water Treatment plants which are of public utilities and the concerned District Collectors have also given them the necessary certificates. In respect of the exemption notification as it was in the unamended form. Even after amendment, we find that the pipes of higher dimension have been allowed exemption in addition to the pipes required up to the first storage point. In other words, the amended notification also allows exemption to pipes which are used beyond the first storage point, but in respect of higher dimension." The Hon'ble CESTAT held that the impugned order passed by the Joint Appellate Authority extending exemption to the Respondent does not require any interference. Accordingly they dismissed all the appeals filed by the department.

and dropped by Commissioner of CE & Kol. in Comm to vide  
 O in O no 03.05/commr/CE/Kol-III/2010-11 dt. 30.6.2010.  
 The O in O was reviewed by Committee of Chief Commissioner  
 And Luvme filed appeal before the CE STAT ERB: Kolkata.  
 Sri D. K. Acharya. Spl. Counsel, has been appointed to defend  
 the case. Presently the case is pending before CE STAT.

In view of the above Appeal, the instant SEN. issued  
 under DGCEI F No 02/Misc/KOL/05/7394-7401 dt 6.10.2006  
 which is presently lying in the Call book, may be allowed  
 to remain in Call Book till finalisation of the case.

9/11/2014  
 Supdt Adjn

Commissioner in pt.

Two Case pending SCs  
 be decided Adjudicated  
 when for SCs issues and  
 35 hrs was per. pho given  
 full details in chart (SEN  
 1500 to not or present  
SCs.

18/11/14

Spl Adj

Commissioner's directive above.  
 Reply to ADG, DGCEI, KZU letter Do. No: 288/KZU/  
 Kol/STAT/Action Plan/13/9637 dt 31.12.2013, incorporating  
 therein the full details of the SEN issued, for reasons  
 for pending etc. has been prepared & placed of posts  
 for Commissioners kind perusal & signature pl.

9/11/2014  
 Supdt Adjn

Commissioner in pt.

all No - 03  
 9/11/2014  
 Supdt Adjn

As directed, letter addressed to Chief Commissioner  
Kolkata is also prepared and placed opposite for Commissioner's  
kind perusal & signature M.

27/11/2014  
Supt (Admin)

Pl. que detail of  
SCN - P. J. Issued  
as here as to be Commissioner III pl.  
is copied as file to DGCEI, Kolkata  
Self Colours not for the APJ  
27/11/14

Commissioner's directive above.

As directed self content note incorporating the details and reasons for transferring the instant and periodical show cause notices to call book are furnished below:

- a. The Commissioner of Central Excise (Appeals) passed two orders under Order-in-Appeal No. 52-60/Kol-III/06, dated 31.07.2006 and No. 76-96/Kol-III/06, dated 25.09.2006 prior to issuance of the DGCEI Show Cause Notice ated 06.10.2006. In both the impugned orders, Commissioner (Appeals) allowed the benefit of exemption on pipes beyond "First Storage Point".
- b. The said order was appealed against before CESTAT on 31.07.2006 and on 25.09.2006, Kolkata by the Commissionerate/Revenue. The instatnt show cause notice dated 06.10.2006 issued by DGCEI was also transferred to call book in 16.11.2007.
- c. The Hon'ble CESTAT vide its Order dated 27.10.2008 dismissed the Revenue Appeal upholding the order passed by the Commissioner (Appeal). The Department preferred appeal before the Hon'ble Supreme Court and for such reasons the case remained in call book.
- d. The Hon'ble Supreme Court vide its Order dated 24<sup>th</sup> August, 2009 dismissed the Civil Appeal filed by the Revenue. (copy enclosed)

Thereafter, the then Commissioner, C.Excise, Kolkata-III, Shri.R.P. Meena passed a single adjudication Order-in-Original No. 03-05/COMMR/CE/KOL-III/2010-11, dated 30.06.2010 (copy enclosed) and dropped three (serial-I,II&III) periodical/subsequent

SCNs as mentioned in chart above. (The parent SCN dated 06.10.2006 and SCN at serial no. iv above was kept pending.)

The said order dated 30.06.2010 was reviewed and the Revenue preferred appeal before the Hon'ble CESTAT, ERB Kolkata on the basis of the Review Order No.35/Review/2010-11, dated 02.09.2010 passed by the Committee of Chief Commissioners and vide Miscellaneous Application (MA) dated 29.01.2013. The case is pending before the Hon'ble CESTAT, ERB Kolkata till date.

27/11/2014  
Supt (Admin)

Commissioner III pl.

Commissioner's directive above.

As directed self content note incorporating the details and reasons for transferring the instant and periodical show cause notices to call book are furnished below.

After Show Cause Notice dated 06.10.2006 issued by D.G.C.E.I., following four periodical Notices involving identical issue were issued with following details :

- i) Show cause Notice No.V(15)39-CE/Adjn/Addl.Commr/Kol-III/2007/7104, dated 25.06.2007
- ii) Show cause Notice No.V(15)21-ECL/Adjn/Kdh-I/2006/466, dated 05.04.2007
- iii) Show cause Notice No.V(15)6-ECL/Adjn/KDH-I/2007/683, dated 18.05.2007 iv)
- iv) Show Cause Notice No. V(15)15-CE/Adjn/Commr/Kol-III/2009/3955-58, dated 12.03.2009

As per records ,the main/ parent SCN dated 06.10.2006 was put in call cook by the then Commisioner, Kolkata-III on 01.11.2007. The reasons attributed for transferring to the call book during the material period can be summarized as follows:

a. The Commissioner of Central Excise (Appeals) passed two orders under Order-in-Appeal No. 52-60/Kol-II/06, dated 31.07.2006 and Na. 76-96/Kol-III/06, dated 25.09.2006 prior to issuance of the DGCEI Show Cause Notice ated 06.10.2006. In both the impugned orders, Commissioner (Appeals) allowed the benefit of exemption on pipes beyond "First Storage Point".

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d. The Hon'ble Supreme Court vide its Order dated 24<sup>th</sup> August, 2009 dismissed the Civil Appeal filed by the Revenue. (copy enclosed)

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Draft Letter addressed to ADG(DGCEI) has been prepared and placed apposite for Commissioneer's kind approval and signature please.

*Subrata Kar*  
27/11/2014  
(SUBRATA KAR)  
Supdt. (Adjn.)

*g. 27/11/14*  
(COMMISSIONER)  
*Put in call book as directed*  
*g. 27/11/14*  
*for Adj.*

Commissioner's direction in notes prepaged may kindly be seen.

As directed, draft letter addressed to Chief Commissioner apprising the reasons for the writ being transferred to call book and seeking further instructions whether the case can be taken out from call book and adjudicated upon.

Submitted for Commissioner's kind approval.

Relates to CC-Ex also 1 case  
Commissioner in pd. 28/1/14.

Jan 27/1/2014  
Supdt (Adm)

Letter reference no 2178 dt 18.02.2014 received from the Chief Commissioner's office & placed opposite, in the context to this office letter of No: 1485 dt 28.01.2014 may kindly be perused.

In the said letter Chief Commissioner has opined that Commissioner CEX is the competent authority to put or take out a case from the call book. C.S. has referred to CBFC Circular No 162/T3/95-CX dt 14.12.95 and 385/18/98-CX dt 30.3.1998, copies of both are placed opposite for Commissioner's kind perusal.

Going by the Board's Circulars mentioned supra, the present case cannot be adjudicated since Department has gone in appeal before the CESTAT on identical issue vide Review Order No 35 dt 2.9.2010.

Since the case is still pending before CESTAT ERB, Kolkata, Commissioner may, if considered fit, transfer the case again to call book.

As regards Board's Circular No 915/6/2011-CX dt 16.5.2011, it appears that the same should be taken care of at the time of adjudicating the case.

Submitted for Commissioner's kind perusal & further instructions in pd.

Jan 21.02.2012  
Supdt Adm.

The put-up to me after  
ag commuted for  
CC-Ex  
Kolkata  
Commissioner in pd.

C.No.V(15)52/Commr/Adjn/Kol-III/2006

Note on pre page please be perused.

As directed the file has been taken up for review.

The SCN was issued on the basis of willful suppression of facts with the intent to evade payment of Central Excise Duty for removal of pipes for water treatment and supply plants under notification number 06/2006 dated.01.03.2006.

The case was placed in Call Book after three Show Cause Notice on similar issue were adjudicated vide O-in-O No. 03-05/Commr/2010-11 dated. 30.06.2010 and an appeal was filed in the Hon'ble CESTAT by the Department.

The departmental case was subsequently withdrawn after the Hon'ble Supreme Court dismissed the appeal in a similar case of IVRCL Infrastructure and also Larsen & Toubro duly reported in 2016(336) ELT A134(SC) and 2017 204-SC-CX and duly accepted by the Department after review.

In view of above, if approved the case may be taken out of Call Book for adjudication proceedings.

File put up for perusal and further direction please.

*[Signature]*  
13/02/18  
Inspr(Adjn)

*[Signature]*  
Supdt(Adjn)

*Notes above may please be seen  
put up for kind approval please.*

*[Signature]*  
13/2/18  
Supdt (Adjn)

*[Signature]*  
13/2/18  
AC (Adjn)

*[Signature]*  
14/2/18  
Commissioner

*13-2-18  
13-2-18*

V(15)/21/North CGST & CX/Adm/Comm/Eel/18

22

As directed by the Commissioner, CGST & CX, Kolkata North Commite has been fixed the date of P.H on 16/3/18 at 15.30 hrs.

Accordingly the with the int no for you K  
General approval & signature if deemed fit.  
23/2/18

*[Signature]*

23/2/18

AL (Adm)

23/2/18

As directed by the Commissioner of Central Tax, CGST & CX, Kolkata North Commite, <sup>P.H</sup> has been fixed on 25/04/2018 at 15:30 hrs.

Accordingly, a letters in this respect has been prepared and placed opposite for kind consideration please.

Blancherjee  
29/04/2018  
(S. Blancherjee)  
Imp (Adm)

*[Signature]*

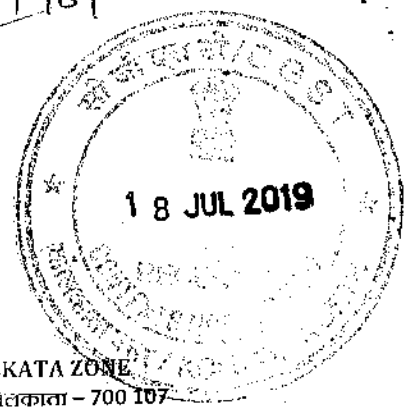
21/4/18

*[Signature]*  
Chuler



1328  
18/7/19  
R-17/7/19

Dameny 18/7/19  
Supdt (RTI)



भारत सरकार  
GOVERNMENT OF INDIA  
प्रधान मुख्य आयुक्त का कार्यालय  
OFFICE OF THE PRINCIPAL CHIEF COMMISSIONER  
केन्द्रीय वस्तु एवं सेवा कर, कोलकाता क्षेत्र

CENTRAL GOODS AND SERVICES TAX AND CENTRAL EXCISE, KOLKATA ZONE  
केन्द्रीय वस्तु एवं सेवा कर भवन, दुसरा तल, 180, शान्तिपल्ली, आर. बी. कनेक्टर, कोलकाता - 700 107  
GST Bhawan (2<sup>nd</sup> Floor), 180 Shanti Pally, R. B. Connector, Kolkata - 700 107  
Phone No. 033-2441-6797/6842; Fax No. 033- 2441-6834/6798

F. No. V (30)158/Pr. CCO/CGST&CX/RTI/July-19/Kol

Date: 17.07.2019

To  
The CPIO,  
Office of the Commissioner,  
CGST & CX, Kolkata North Commissionerate.

12.459  
Date: 17.07.2019  
Supdt (RTI)

**Sub: RTI Application dated 12.07.2019 filed by Shri Ram Ratan Roy under Right to Information Act 2005 -reg.**

Please find enclosed herewith an RTI application dated 12.07.2019, which has been received by the undersigned on 15.07.2019 and has subsequently been registered at this office vide Regn. No.04/RTI/CGST &CX/CC/ KOL/2019-20 dated 17.07.2019.

Since the information is in regard to a case that has purportedly been adjudicated by the Central GST & Central Excise, Kolkata North Commissionerate and information sought for by the applicant is not available with this office, the application is therefore being transferred under section 6 (3) of the RTI Act, 2005 to your office with request to furnish the information directly to the RTI applicant.

Encl: As Above.

*B. Bhowmick*  
(B. Bhowmick) 12/7/19  
CPIO & Assitant Commissioner,  
CCO, Kolkata Zone

22.07.2019

# ELECTROSTEEL CASTINGS LIMITED

H.O. : G.K. Tower, 19, Camac Street, Kolkata 700 017, India  
Regd. Office : Rathod Colony, Durgam Chughra, Bhubaneswar, Odisha 751 017  
Tel : +91 33-2283 9000 / 7100 44001  
CIN : I273100141935PLC000310  
Web : www.electrosteelcastings.com



## APPLICATION FOR SEEKING INFORMATION UNDER SECTION 6(1) OF THE RIGHT TO INFORMATION ACT, 2005

Ref No. RTI/19-20/39

Date: 12.07.2019

To  
The Central Public Information Officer,  
Office of the Principal Chief Commissioner of CGST & C.Ex., Kolkata ZONE,  
GST Bhawan; 180 Rajdanga Main Road; Shantipally,  
KOLKATA - 700 107

Dear Sir,

I am a citizen of India.

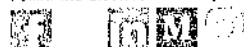
It is on record that the show cause notice of DGCEI F.No. 02/MISC/KOL/05/7394-7401 dated 06.10.2002, involving material period **September, 2002 to March, 2005**, has been adjudicated under Order-in-Original No. 03/COMMR/CGST & CX/ KOL/ NORTH/ 2019-20 dated 07.06.2019 confirming demand u/s 11A & 11D of the erstwhile Central Excise Act, 1944 with interest & penalty despite the fact that written reply to the notice was duly submitted by the Noticee M/s Electrosteel Castings Ltd. on 28.06.2007 as admitted in the O/O at page-56 ; 2<sup>nd</sup> paragraph. **This shows an inordinate delay of adjudication for long seventeen years from start of the material period of 2002 and long thirteen years from issuance of the notice - even though the main two issues of dispute as regards applicability of section 11D of the said Act stood settled against revenue in 2006 [ Unison Metal case - admitted in : Para 20, Page-72, end of 1<sup>st</sup> paragraph of the O/O] & applicability of section 11A also stood settled in 2009 against revenue on the 1<sup>st</sup> Storage issue [ admitted under ref. Paras 4,5,6 & 7- Page 64 of the O/O].**

In this regard, copy of the Order-in-Original No. 03/COMMR/CGST & CX/ KOL/ NORTH/ 2019-20 dated 07.06.2019 is **attached** for ready reference please.

Now, reference to above, please provide the short information specified below:

1. Information required:

- (a) **Reasons for such inordinate delay in adjudication** of a case of above back drop where such unexplained and avoidable delay caused mental agony and related sufferings including demise of a noticee as admitted under clause (d) :Page 83 of the adjudication order (O/O) ;
- (b) **Please provide copies of the relevant file note-sheets** where several P.H.s were conducted for the above case in 2009 & 2010 - but no decision taken & no Order passed by department & even though the last PH was conducted on 25.4. 2018 - it took more than a year for issuance of the O/O on 07.6.2019.



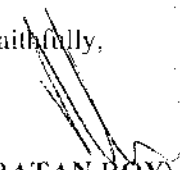
# ELECTROSTEEL CASTINGS LIMITED

H.O. : G.K. Tower, 19, Camac Street, Kolkata-700 017, India  
Regd. Office : Flathead Colony, Rajparaipat, Sundergarh, Odisha 770 017  
Tel : +91 33-2283 9900, 7103 4400  
CIN : L27310OR1955PLC000310  
Web : www.electrosteelcastings.com



2. To the best of my knowledge and belief, the above information does not relate to section 8 & 9 of the RTI Act, 2005 which are exempted from disclosure.
3. Whether the information sought concern the life and liberty of a person? NO.
4. Details of fees paid: Fees of Rs. 10/- for the application plus fees of Rs. 40/- for documents – totaling to Rs. 50/- paid vide IPO No. 78G 246656 dated 24.06.2019 in favour of A.C.A.O.CGST & CX KOLKATA NORTH is also attached.
5. Additional fees for providing photocopies of the information, if any further required as per law, would be paid promptly on receipt of written direction from the Department in this regard please.

Yours Faithfully,

  
(RAM RATAN ROY)  
Jt. General Manager( Credit Control)  
Electrosteel Castings Limited  
G.K.Tower, 19, Camac Street, Kolkata-700 017  
Mob : 9903911379, e mail : rroy@electrosteel.com

Attached as above:

- (i) Fees payment document &
- (ii) Copy of the Order-in-Original No.  
03/COMMR/CGST & CX/ KOL/ NORTH/ 2019-20 dated 07.06.2019.





भारत सरकार

GOVERNMENT OF INDIA

राजस्व विभाग / DEPARTMENT OF REVENUE

केन्द्रीय कर के आयुक्त का कार्यालय, सीजीएसटी और सीएक्स कोलकाता उत्तर  
OFFICE OF THE COMMISSIONER OF CGST & CX KOLKATA NORTH  
CGST Bhawan, 180, Santipally, Rajdanga Main Road, Kolkata -700107.

C. No. V(15)52-CE/Commr/Adjn/Kol-III/2006/

Date of passing: को पारित

मूल आदेश क्रम सं /O-in-O Sl. No.

03/COMMR/CGST & CX/KOL/NORTH/2019-20

DATED 07-06-2019

मूल आदेश / ORDER-IN-ORIGINAL

श्री देवेन्द्र नगवेकर, भा.रा.से, आयुक्त, सीजीएसटी और सीएक्स कोलकाता उत्तर,  
न्यायिक निर्णय कोलकाता द्वारा पारित

PASSED BY SHRI DEVENDRA NAGVENKAR, I.R.S.,  
COMMISSIONER OF CGST & CX KOLKATA NORTH  
CGST BHAWAN, ADJUDICATION, KOLKATA.

प्रस्तावना / PREAMBLE

1. यह आदेश, जिसके नाम पर जारी किया जाता है, उन के व्यक्तिगत उपयोग के लिये निःशुल्क दिया जाता है

This copy is granted free of charge for the private use of the person to whom it is issued.

2. यदि कोई व्यक्ति इस आदेश से व्यथित है तो वे इसके विरुद्ध, सीमा शुल्क, उत्पाद शुल्क और सेवाकर अपीलिय प्राधिकरण (सेसटैट), 139, ए. जे. सी. बोस रोड, बम्बूविल्ला, सातवाँ तल, कोलकाता - 700014 को अपील कर सकते हैं।

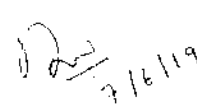
Any person deeming himself aggrieved by this order may appeal against this order to the Central Excise and Service Tax Appellate Tribunal (CESTAT), 169, A.J.C Bose Road, Bamboo Villa, 7th Floor, Kolkata -700014.

3. इस आदेश को पार्टी द्वारा, डाक से या व्यक्तिगत रूप से प्राप्त करने के तीन महीनों के अंदर, सेसटैट (प्रणाली) नियम, 1982 के अनुलग्नक एस.टी.5 प्रारूप में, चार प्रतियों में अपील करनी चाहिए। अपील के साथ न्यायालय शुल्क स्टैप रु.4/- लगाया होना चाहिए और साथ में निम्नलिखित कागजात होने चाहिए।

Hundred and Twenty Five only) **Totalling Rs. 6,62,60,643/- (Rupees Six Crore Sixty Two Lac Sixty Thousand Six Hundred and Forty Three only)** under Section 11A(2) of Central Excise Act, 1944 extant at the time of issue of the show cause notice.

2. I order M/s Electrosteel Casting Ltd. to pay interest on the demand confirmed at the appropriate rate for such period under Section 11AB of Central Excise Act 1944 extant at the time of issue of the show cause notice.
3. I impose a penalty of **Rs.6,62,60,643/- (Rupees Six Crore Sixty Two Lac Sixty Thousand Six Hundred and Forty Three only)** under Section 11AC of Central Excise Act 1944.
4. I order appropriation of **Rs.2,00,00,000/- (Rupees Two Crore only)** deposited vide cheque No. 306932 dated 17.08.2006 of Punjab National Bank in favour of the Commissioner of Central Excise, Kolkata-III Commissionerate against the above demand confirmed.
5. I confirm demand of **Rs.14,46,70,979/- (Rupees Fourteen Crore Fourty Six Lac Seventy Thousand Nine Hundred and Seventy Nine only)** under provisions of Section 11D that has been collected and appropriated by the Noticee M/s Electrosteel Casting Ltd. in excess of the Central Excise duty assessed and order payment of the same under Section 11D(3) to the credit of Government of India.
6. I order M/s Electrosteel Casting Ltd. to pay interest on the demand confirmed at the appropriate rate for such period under Section 11DD of Central Excise Act 1944.
7. I impose penalty at **Rs.1,00,00,000/- (Rupees One Crore only)** on Sri Rajesh Daga, GM Commercial (Noticee No. 4) in terms of Rule 26 of the Central Excise Rules, 2002.
8. I refrain from imposing any penalty on Sri Umang Kejriwal, Managing Director (Noticee No.2).
9. I refrain from imposing any penalty on Sri H. K. Modi, Executive Director (Noticee No. 3).
10. I refrain from imposing any penalty on Shri Sabarna Roy, (Noticee No.7).
11. I refrain from imposing any penalty on Sri M. K. Jalan, Executive Director (Noticee No. 5).
12. I refrain from imposing any penalty on Sri P. K. Khaitan, Chairman/Director (Noticee No.8).
13. I refrain from imposing any penalty on Shri P.S. Nagi, AGM (F& A) (Noticee No.6).

The present proceeding is disposed of accordingly.

  
[DEVENDRA NAGVENKAR]  
COMMISSIONER  
CGST & CX  
KOLKATA NORTH COMMISSIONERATE,

Date:-

C. No. V(15)S2-CE/Commr/Adm/Ko-III/2006/

Copy Forwarded to-

1. **M/s. Electro Steel Casting Ltd.**  
**50, B T Road, Khardah,**  
**24 parganas (N), West Bengal**

**Noticee No. 1.**

2. **Shri Umang Kejriwal,**  
**Managing Director,**  
**M/s. Electro Steel Casting Ltd**

**Noticee No. 2.**

3. *Shri H. K. Modi*  
*Executive Director,*  
*M/s. Electro Steel Casting Ltd* *Noticee No. 3.*
  
4. *Shri Rajesh Daga*  
*AGM/DGM (Commercial),*  
*M/s. Electro Steel Casting Ltd* *Noticee No. 4.*
  
5. *M. K. Jalan*  
*Executive Director,*  
*M/s. Electro Steel Casting Ltd,* *Noticee No. 5.*
  
6. *Shri P. S. Nagi*  
*AGM, (F&A),*  
*M/s. Electro Steel Casting Ltd,* *Noticee No. 6.*
  
7. *Shri Sabarna Roy*  
*Civil Engineer,*  
*Head of Electrosteel Casting Ltd.(Services).* *Noticee No. 7.*
  
8. *Shri P. K. Khaitan*  
*Chairman / Director*  
*M/s. Electro Steel Casting Ltd,* *Noticee No. 8.*