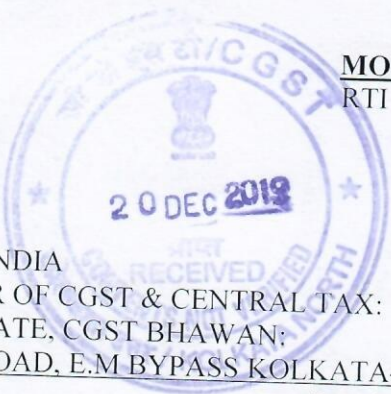


B-3052
29/12/19



MOST URGENT
RTI MATTER

GOVERNMENT OF INDIA
OFFICE OF THE PRINCIPAL COMMISSIONER OF CGST & CENTRAL TAX:
KOLKATA- NORTH COMMISSIONERATE, CGST BHAWAN;

1ST FLOOR: 180, SHANTIPALLY, RAJDANGA MAIN ROAD, E.M BYPASS KOLKATA-700107
C. No. V(30)184/RTI/HQ/CGST & CX/Kol-North/2019/

Dated: -

Suppl (System)
Shankar
20/12

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

Sir/Madam,

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

Please refer to your RTI application dt. 29.11.2019 received by this Commissionerate on 03.12.2019. Subsequently the said RTI application was registered at this office vide Registration No. 160/RTI/Kol-North/19 dt. 03.12.2019.

The desired information as received from the Deputy Commissioner (T&R) on 17.12.2019 under C.No. V(30) 64 / T&R / GST/ Kol (N) / RTI / 2017-18 / 24417 dated 17.12.2019 and from the Assistant Commissioner (Legal), CGST & CX, Kolkata North Commissionerate on 06.12.2019 under C.No. V(30)22 / Law/RTI/CGST&CX/Kol-North/2019/ 23449 dated 06.12.2019 are 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 1st Appellate Authority namely Sri B.S.Meena, Joint 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.

Enclo- 02 (two) Sheets.

Yours faithfully,

Sd/-

(Samiran Roy)

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

Dated : 20 DEC 2019

C. No. As above/

24977

Copy forwarded for information to: -

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. 29.11.2019 along with the desired information as mentioned above (enclosed eight sheets).

Samiran Roy
20/12/19

(Samiran Roy)

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

ELECTROSTEEL CASTINGS LIMITED

30, B. T. Road, Khardah, P. O. Sukchar, Kolkata 700 115, India
Tel : +91 33-71014300, 71014450 Fax : +91 33-71014501 to 4504
CIN : I 27310OR1955PLC000310
Web : www.electrosteelcastings.com



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

Ref No. RTI/19-20/69

Date: 29.11.2019

To
The Respected Central Public Information Officer (CPIO),
OFFICE OF THE PR. COMMISSIONER,
CGST & C. EX., KOLKATA NORTH,
GST Bhawan, 2nd Floor,
180 - Rajdanga Main Road; Shantipally,
KOLKATA - 700 107

No markings of CPIO
S. J. Nanda, Imp.
R. D. 20/19

Dear Sir,

I am a citizen of India.

Relating to Exemption Notification No. 108/95- CE Dt. 28.8.1995 it is on record that in the **Departmental appeal** case before the Hon'ble CESTAT, ERB, Kolkata (**Ex. Appeal No.75257 of 2017**) arising out of Order-in-Original No.12-17/Commr./CE/Kol. III /2016-17 dated 08.11.2016 passed by Commissioner of Central Excise, KOL- III read with Ex. Mise. Application (EH) No.75342 of 2019 ; CO-75656 of 2017, in the matter of [Commissioner, CEx., Kol - III, 180, Shanti Pally, Rajdanga Main Road, Kolkata-700107, Applicant - Vs. - M/s Electrosteel Castings Limited, 30, B.T.Road, Khardah, P.O.- Sukchar, Kolkata-700115, Respondent] , the **Hon'ble CESTAT, ERB, Kolkata** in Misc. Order No. 75645-75646 / 2019 read with **Final Order No. 75461/2019 Dated 10.4.2019** has **rejected the Department's Appeal** & upheld the said Order-in-Original No.12-17/Commr./CE/Kol. III/2016-17 dated 08.11.2016 which was passed by the Commissioner of Central Excise, KOL-III against revenue nullifying proposed demand, interest & penalty made earlier under six periodical SCNs. The decision under the O/O was so taken in the back drop that the exemption from duty could not be denied in terms of the settled law and Board's subsequent clarification. Hon'ble CESTAT thus upheld the O/O and rejected the department's Appeal.

In this regard, copy of the Hon'ble CESTAT, ERB, Kolkata's subject **Final Order No. 75461/2019 Dated 10.4.2019 is attached** for ready reference please.

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

Information required:

- (a) Whether Department has **ACCEPTED** the above **Final Order No. 75461/2019 Dated 10.4.2019** pronounced by the Hon'ble CESTAT, Kolkata **OR Department** has preferred any further Appeal against the said Order before any higher forum;

Follow the Electrosteel Group on



H.O. : 39, Camac Street, Kolkata 700 017
Tel : +91 33-7103 4400, 2283 9990, Fax : +91 33-2289 4340
Regd. Office: Rathed Colony, Rajgangpur, Sundergarh, Odisha 770 017



R-03/12/19
1680
3/12/19
160/KT/KOL-NORTH/19
108
03.12.2019

ELECTROSTEEL CASTINGS LIMITED

30, B. T. Road, Khardah, P. O. Sukchar, Kolkata 700 115, India
Tel : +91 33-71014300, 71014450 Fax : +91 33-71014501 to 4504
CIN : L27310OR1955PLC000310
Web : www.electrosteelcastings.com



- (b) Please provide copies of the relevant file note-sheets of review action ACCEPTING / NOT ACCEPTING the subject decision of the Hon'ble Tribunal, as the case may be;
- (c) If not accepted, please provide present status of Department's appeal against the CESTAT's said Judgment, if any.
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 232173 dated 22.10.2019 in favour of A.C.A.O. CGST & CX KOLKATA NORTH. Fees Payment-Document in this regard 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)
Joint General Manager (Credit Control)
Electrosteel Castings Limited
G.K. Tower, 19, Camac Street,
Kolkata-700017, Mob: 9903911379,
< email: rroy@electrosteel.com >

Attached:

- (i) Fees payment document &
(ii) Copy of the CESTAT's Final Order No. 75461/2019 Dated 10.4.2019
as above.

Follow the Electrosteel Group on



H.O. : 19, Camac Street, Kolkata 700 017
Tel : +91 33-7103 4400, 2283 9990, Fax : +91 33-2289 4340
Regd. Office : Rathod Colony, Rajgangpur, Sundergarh, Odisha 770 017



Website : www.cestatnew.gov.in
Mail : cestatkolkata@gmail.com

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
169, A.J.C. Bose Road, 7th Floor, Bamboo Villa, Kolkata-700014

Order Forwarding Letter

CROSS Application No. : F/CROSS/75656/2017
EH Application No. : E/MA(EH)/75342/2019, E/MA(EH)/76260/2017
Appeal No. : E/7527/2017-DB

To,

Appellant

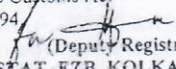
COMMISSIONER OF CENTRAL
EXCISE-Kolkata-iii

Respondent

Electrosteel Castings Ltd

I am directed to send herewith a certified copy of the Misc. Order Nos.75345-75646/2019 & Final Order No. 75461 / 2019 dated on 11/09/2019, passed by the Tribunal under Section 129 B of the Customs Act 1962/Section 35C of the Central Excise Act 1944/Section 86 (7) of the Finance Act 1994

Dated: 02/05/2019

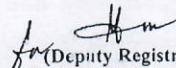

(Deputy Registrar)
CESTAT, EZB, KOLKATA

To:

COMMISSIONER OF CENTRAL EXCISE-Kolkata-iii
130 (1 FLOOR), SHANTHIPALLY,
PAJANGAN MAIN ROAD P.O. EAST KOLKATA
TOWNSHIP,
KOLKATA- WEST BENGAL-700001
Electrosteel Castings Ltd
30 B T Road Sukkhar Khardah
24 PGS(N)
WEST BENGAL

Copy forwarded to

1. Advocate/Consultant: Mr. Arvind Baheti, C.A.
2. J. CDR CESTAT Kolkata
3. The Bar Association
4. Guard File
5. M/s Central Publication (P) Ltd., 1512-B, Shivshu Pitamah Marg, Opposite Sachdeva PT. Colony, New Delhi-110003
6. Taxmen Allied Service (P) Ltd., 59/32, New Rohtak Road, New Delhi-110005
7. Chartered Accountants Institute of India Pvt. Ltd. No.2 (Old No. 35), Vastiyaram Street, Thyagaraya Nagar, Chennai-600017
8. S. S. Mark Professional Services Pvt. Ltd. T-1 518/EV/108, Fla. No. 108, Everest Block, Acitya Enclave, Anandpet, Hyderabad-500026
9. M/s Easy Service Tax on-line Dot Com Pvt. Ltd., 407 A Iscon Mall, above Star India Bazaar, Satellite Road, Mumbai-400015, Gujarat
10. M/s LawCrux Advisors (P) Ltd., Law House, 1-8, Sector 10, Faridabad-121003 (Haryana)
1. 2nd Folder.


(Deputy Registrar)
CESTAT, EZB, KOLKATA

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
KOLKATA

REGIONAL BENCH - COURT NO.2

Ex.Misc.Application (E4) No.75342 of 2019, CO-75056 of 2017

&

Ex.Appeal No.75257 of 2017

(Arising out of Order-in-Original No.12-17/Commr./CE/Kol.III/2016-17 dated 08.11.2016 passed by Commissioner of Central Excise, Kol.III)

CCEx., Kol.III
180, Shanti Pally,
Rajdanga Main Road,
Kolkata-700107

Applicant (s)

VERSUS

M/s Electrosteel Castings Limited
30, B. F. Road, Khardah,
P.O. - Sukchar,
Kolkata-700115

Respondent (s)

APPEARANCE :

Shri A. K. Biswas, Authorized Representative for the Appellant
Shri Arvind Baheti, C.A. for the Respondent

CORAM:

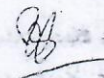
HON'BLE MR. P. K. CHOUDHARY, MEMBER (JUDICIAL)
HON'BLE MR. V. PADMANABHAN, MEMBER (TECHNICAL)

MISC. ORDER NO. 75645-75646/2019
FINAL ORDER NO. 75461/2019

Date of Hearing : 10.04.2019
Date of Decision : 10.04.2019

PER V. PADMANABHAN :

The present Misc.Application for early hearing of the appeal, has been filed by the Respondent-Department on the ground that the Department has a strong case on merit and huge revenue is involved in the present case. Accordingly, the Id.D.R. for the Revenue, prays for out-of turn hearing of the appeal.



In view of the above, the Misc.Application for early hearing is allowed. We find that the present matter lies in a narrow compass and the same is taken up for final disposal with the consent of both sides.

2. The present appeal is filed by the Revenue against the Order-in-Original No.12-17/Commr./CE/Kol.III/2016-17 dated 08.11.2016.

3. The respondent is a manufacturer of Ductile Iron Spun Pipes and other types of Pipes falling under Chapter 73 of the Schedule to the Central Excise Tariff Act, 1985. The dispute in the present case revolves around clearance made by the Respondent during the period 2006-2007 to August, 2015 by availing exemption benefit under Notification No.108/95-CE dated 28.08.1995. The said Notification grants exemption from excise duty in respect of the goods supplied to projects funded by an International Organization, approved by the Government of India subject to meeting the conditions prescribed therein. The Respondent obtained Project Authority Certificate (PAC) duly countersigned by the Principal Secretary in the concerned State Government that the goods are required for execution of the said project and that the said project has been duly approved by the Government of India for implementation by the concerned State. The Department noticed that the clearance of the goods made by the Respondent in terms of PAC, were made to the project site in the name of the contractors engaged by the Project Implementing Authority (PIA). The Department took the view that the benefit of Notification cannot be extended to the Respondent since the goods were not supplied to the PIA. By issue of six periodical show-cause notices, the Department proposed to deny the benefit of Notification availed by the Respondent during the disputed period. The Adjudicating Authority finalized the show-cause notices issued through the impugned order in which she dropped the entire demand. This is challenged by the Revenue in the present appeal.

4. The grounds of appeal are reiterated by the Id.D.R. on behalf of Revenue.

5. The Respondent is represented by Shri Arvind Baheti, Id.C.A.. He submitted that the goods dispatched were covered by PAC duly

countersigned by the Principal Secretary to the State Government as required under the Notification. He submitted that the benefit of Notification cannot be denied only for the reason that the goods have been dispatched to the contractors engaged by PIA and not to the Implementing Authority itself. In this regard, he relied on the various case laws, in which identical question has been considered and settled in favour of the assessee. In particular, he referred to the decision of the Tribunal in the case of H.Sarkar & Company Vs. CCE., Kol.II reported in 2008 (226) ELT 119 (Tri.-Kolkata) and also the decision of the Hon'ble Madras High Court in the case CCE., Pondicherry Vs. Caterpillar India Pvt. Ltd. reported in 2013 (297) ELT 8 (Mad.), which has been approved by the Hon'ble Supreme Court and reported as 2016 (335) ELT A27 (S.C.). He also submitted that the issue has been clarified by the CBEC by issue of Circular F.No.334/8/2016-TRU dated 29.02.2016 at Para (4).

6. We have heard both sides and perused the records.

7. The moot point to be decided in this appeal, is whether the exemption under Notification No.108/95-CE dated 29.08.1995 is available when the goods have been dispatched in the name of contractors approved and assigned with the project work by the Project Authority. After going through the case laws cited by the Respondent, we find that the issue stands already settled and decided in favour of the Respondent. It is also seen that the Adjudicating Authority has extended the benefit on the basis of the decision in favour of the Respondent in the cases of H.Sarkar & Company & Caterpillar India Pvt. Ltd. (supra). The Adjudicating Authority, herself, in the impugned order, has observed as follows :

"4.4.1 In this regard, I rely on H. Sarkar & Co. Vs Commissioner of Central Excise, Kolkata-II [2008 (226) E.L.T. 119 (Tri.-Kolkata)], wherein the Ld. Tribunal opined that "in this case the Appellants have substantially fulfilled the conditions of the impugned Notification No. 108/1995 and the impugned goods have been utilized for the intended purpose. As such, the

exemption cannot be denied which is well deserved by the Appellants having utilized the impugned goods for the specified project.

4.4.2 I also rely on *Caterpillar India Pvt. Ltd. Vs. Commissioner of Central Excise, Pondicherry*, [2005 (185) E.L.T. 430 (Tri.-Del.)], [2013 (297) E.L.T. 8 (Mad.)]. One of the substantial questions of law answered by the Hon'ble High Court in the said case, which has a direct bearing on the instant issue, was as under.

Whether or not the impugned goods supplied to the individual contractors executing the "Project" qualify as supplies to the Project to avail exemption under Notification No. 108/95. The Hon'ble High Court answered the above question in favour of the assessee and against the revenue by holding in para 8 as under:-

"8. We do not find any justifiable ground to interfere with the order of the CESTAT based on a factual finding and there was no material placed by the Revenue on the allegations of the possible misuse of the goods for unintended purposes by the Sub-Contractors. Secondly, being the beneficial Notification issued in public interest and the project itself being executed fully by the Contractors as per the directions of the Project implementing Authority, the fact that the machineries were not given directly to the project implementing authority but given to the agency executing the work in fact cannot go against the assessee's claim. Thus ultimately, as the machineries had been put in use by the sub-contractors, who were given the job of execution the claim for exemption cannot be denied. The use of the phrase 'supplied to the projects financed by the said United Nations or an International Organization and approved by the Government of India' clearly shows that the condition for grant of exemption is supply of the goods towards the project and nothing beyond."

Thus with all the conditions satisfied, the beneficial Notification applies to the case on hand. In the circumstances, we do not find any justification to introduce any condition or read in a

restrictive manner. Consequently, the Revenue's appeal fails and hence, the same is dismissed."

The Hon'ble Supreme Court dismissed the petition for Special Leave to Appeal (c) No. 4504 of 2014 filed by Commissioner of Central Excise, Pondicherry [Commissioner Vs. Caterpillar India Pvt. Ltd. 2016 (335) E.L.T. A27 (S.C)]

The above view has also been affirmed in IBM India Pvt. Ltd. Vs. Commissioner of Central Excise, 2008 (223) ELT 429 (T) and 2016 (335) ELT 211 (Mad.).

4.5 In this regard, I also draw support from the clarification issued vide D.O.F. No. 334/8/2016-TRU dated 29.02.2016, issued by Government of India, Ministry of Finance, Department of Revenue, Tax Research Unit (TRU).:

"Notification No. 108/95-CE dated 28th August, 1995 provides full exemption from excise duty to goods supplied to the projects financed by the UN or an international organization and approved by the Government of India subject to notification by the authorities concerned that the said goods are required for the execution of the said project.

A doubt has been raised as to whether the benefit of excise duty exemption is intended to be restricted to direct supplies by the contractor to the project.

In this regard, it is clarified that the exemption from excise duty, under notification No. 108/95-CE dated 28.08.1995 is also available to sub-contractors for manufacture and supply of goods for or on behalf of the main contractor (who has won the contract for the supply of goods to the projects financed by the UN or an international organization and approved by the Government of India) for execution of the said project, subject to compliance of other specified conditions, if any.

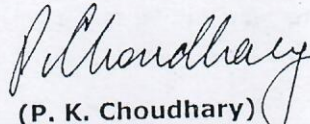
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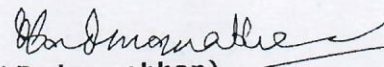
On issuance of the said clarification in this regard by the board, the impugned issue deserves to be finally put to rest.

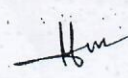
Therefore, after careful consideration of the issue in hand, I find that the charges made in the Show Cause and demand Notices issued under C. No. (s) (i) V (15)33-CE/Adjn/Commr/Kol-III/2011/10488 dated 02/08/2011 and corrigendum issued vide C. No. V (15)33-CE/Ajdn/Commr/Kol-II/2011/10978 dated 10/08/2011 (ii) V(15)52/CE/Adjn/Commr/Kol-II/2012/7683 dated 8.5.2012 (iii) V (15) 42/CE/Kol-III/Commr/Adjn/2013/7376 dated 06.05.2013 (iv) V (15) 29/CE/Kol-III/Commr/Adjn/2014/6479 dated 02.05.2014 (v) V (15)99/CE/Kol-III/Commr/Adjn/2015/1833 dated 24.02.2015 and (vi) V(15) 36/CE/Kol-III/Commr/Adjn/EC/2015/13445 dated 21.12.2015 have neither been substantiated by the department nor the fulfillment of all eligibility criteria by the noticee has been disputed "

8. In view of the above, we find no reason to interfere with the findings of the Adjudicating Authority. Accordingly, the impugned order is upheld and the appeal filed by the Revenue is rejected.

(Dictated and pronounced in the open court)


(P. K. Choudhary)
Member (Judicial)


(V. Padmanabhan)
Member (Technical)



925461/15
भारत सरकार सेवार्थ

ON INDIA GOVERNMENT SERVICE

SPEED POST

B.N.P.L.

Code No. CCU 501-209

Date

22 MAI 1955

If undelivered please return to:
Customs, Excise & Service Tax
Appellate Tribunal, EZB,
169, A.J.C. Bose Road
Bamboo Villa, (7th Floor)
Kolkata - 700 014

Electrosteel Castings Co.,
30, B.T. Road,
Baikher, Khardol,
24 PPS/A.



22 MAI

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17/12/19

Supdt (RTI)
Jamenuey
17/12/19



Sm S. N. Das, Supdt
17/12/19

GOVERNMENT OF INDIA

**OFFICE OF THE PR. COMMISSIONER OF CENTRAL GOODS AND SERVICE TAX & CX
KOLKATA NORTH COMMISSIONERATE, HDQR. TRIBUNAL & REVIEW UNIT
CGST BHAWAN, 180, SHANTIPALLY, RAJDANGA MAIN ROAD, KOLKATA-700107**

C. No: V(30)64/T&R/GST/Kol(N)/RTI/2017-18/24417

Dated: 17 DEC 2019

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

Sub: RTI application dated 29.11.2019 filed by Shri Ram Ratan Roy, Kolkata - 700017, transferred under Sec.5(4) of RTI Act 2005 — reg.

Please refer to your letter under C. No. V(30)184/RTI/HQ/CGST&CX/Kol North/2019/ 23017 dated 04.12.2019 in connection with the subject above.

The file is under process. So, no copies of relevant note sheet pages could be furnished at the moment.

This is for your kind information and necessary action, please.

Biswarup Das
16/12

(BISWARUP DAS)
Deputy Commissioner (HQ. T&R)
CGST & CX, Kolkata (N) Comm'te

16558
6/12/19

RTI
6/12/19



GOVERNMENT OF INDIA

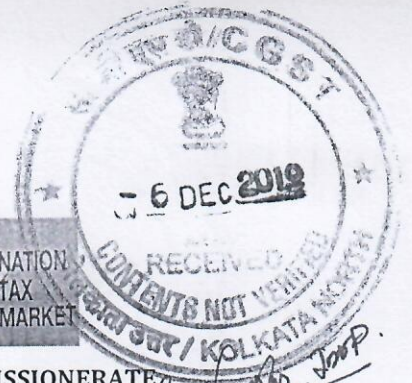
OFFICE OF THE PRINCIPAL COMMISSIONER

CENTRAL GOODS AND SERVICE TAX & EXCISE, KOLKATA NORTH COMMISSIONERATE

GST BHAWAN, (2nd Floor), 180, SHANTI PALLY

RAJDANGA MAIN ROAD, (R.B. CONNECTOR), KOLKATA-700107

Phone No. 2441-7026 Email- stkol.legal@gmail.com



Sin S. Number, Jorp.
6/12/19

C.No. V(30)22/Law/RTI/CGST & CX/Kol-North/2019/23449

Date: 06 DEC 2019

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

SM

Sir,

Sub:- Seeking information under the RTI Act, 2005 in the case of Shri Ram Ratan Roy, Kolkata-700017- Reg.

Please refer to your letter issued under C. No. V(30)184/RTI/HQ/CGST/Kol North/2019/23018 dated 04.12.2019 on the above subject.

The information sought by the applicant is related to the CESTAT cases which are dealt by Tribunal & Review Section.

Therefore, the desired report in respect of legal section of CGST & CX, Kolkata North Commissionerate is treated to be 'NIL'.

Yours faithfully,

[Signature]

Assistant Commissioner (Legal)
Kolkata North CGST & CX Commissionerate