

5509
25.6.19
Smt (S) Sanyal
25/6/19

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)72/RTI/HQ/CGST & CX/Kol-North/2019/

Dated: -

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. 04.06.2019 received by this Commissionerate on 01.06.2019. Subsequently the said RTI application has been registered at this office vide Registration No. 60/RTI/Kol-North/19 dt. 06.06.2019.

The desired information as received from the Assistant Commissioner (T&R), CGST & CX, Kolkata North Commissionerate on 17.06.2019 under C.No.V (30) 73 / RTI/ T&R/CGST & CX /Kol –North(ST) / 2018/7384 dt. 17.06.2019 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 1st Appellate Authority namely Sri Sydney D'Silva, Joint Commissioner, CGST & CX, Kolkata-North Commissionerate, O/o The Principal Commissioner of CGST & CE, Room No. 117, Kendriya Utpad Shulk Bhawan, 180, Shantipally, Rajdanga Main Road, Kolkata-700107.

Encl- 01(one) Sheet.

Yours faithfully,

(Samiran Roy)

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

24 JUN 2019

C. No. As above / 7993

Dated :

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. 04.06.2019 along with the desired information as mentioned above (enclosed four sheets).

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

R-6/6/14

Ranumey
Sudhakar 6/15

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

- 4 JUN 2019



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

4163
04/06/19

Ref No. RTI/19-20/21

Date : 01.06.2019

S. S. Nandi, Imp
06/06/19

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

Dear Sir,

I am a citizen of India.

Your esteemed office must be aware that while deciding the assessee's S.T. Appeal No. 162/2010 in the case of Electrosteel Castings Ltd -vs- Commissioner of Service Tax, Kolkata, Hon'ble CESTAT (DB), KOLKATA in the FINAL ORDER FO/ A/76976/2018 dated 02.11.2018 held that when appropriate service tax with interest has been paid before issuance of any SCN, Imposition of penalty does not sustain in the eye of law.

In this regard, copy of the Hon'ble CESTAT's said Final Order dated 02.11.2018 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 FO/ A/76976/2018 pronounced by the Hon'ble CESTAT, Kolkata on 02.11.2018 in the case of Electrosteel Castings Ltd -vs- Commissioner of Service Tax, Kolkata, OR Department has preferred any Appeal against the said Order before any higher forum.
- (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.

60/RTI/KOL-NORTH/19
dt. 06.06.2019

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



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



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 – totalling to Rs. 50/- paid vide IPO No.78G245944 dated:30.04.2019 in favour of A.C.A.O.CGST & CX KOLKATA NORTH is 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.

Thanking you,
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 as above:

- (i) Fees payment document &
- (ii) Copy of the CESTAT, Kolkata's Final Order No. FO/ A/76976/2018 dated 02.11.2018.

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



IN THE CUSTOMS, EXCISE & SERVICE TAX APPEALS TRIBUNAL
EASTERN ZONAL BENCH: KOLKATA

S.T.Appeal No.162/10

(Arising out of Order-in-Original No.47/Commr./ST/Kol/2009-10 dated 19.02.2010 passed by the Commissioner of Service Tax, Kolkata)

M/s Electrosteel Casting Ltd.

Applicant (s)/Appellant (s)

Vs.

Commr. of Service Tax, Kolkata

Respondent (s)

Appearance:

Shri A. Baheti, C.A. for the Appellants(s)
Shri K. Chowdhury, Supdt. (AR) for the Revenue

CORAM:

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

Date of Hearing : 02.11.2018


Date of Decision : 02.11.2018

ORDER NO. fo/A/76976/2018

Per Bench :

The present appeal challenges Order-in-Original No.47/Commr./ST/Kol/2009-10 dated 19.02.2010.

2. The appellant is a manufacturer of ductile iron pipes at their factory. The dispute covers the period from 2005-06 to 2008-09. They availed services of various foreign based service providers for External Commercial Borrowings. For such service, they were required to pay agency fee to the foreign service providers. Revenue was of the view that such services were in the nature of Banking and other financial services, which are liable to payment of service tax. Since the



service providers were situated outside India, Revenue took the view that the appellant will be liable to pay service tax on reverse charge basis on the agency commission paid to such foreign service providers. The Department (DGCEI) initiated an enquiry regarding total amount of agency commission/fee paid to foreign service providers in December, 2008. The appellant discharged the service tax due on such amount along with applicable interest. The Adjudicating Authority, after issue of show-cause notice, appropriated the service tax paid as well as interest. However, he also imposed penalty of an equal amount to service tax under Section 78 of the Finance Act, 1994. This order is being challenged in the present appeal.

3. Head Shri A.Baheti, Id.C.A. for the appellant as well as Shri K. Chowdhury, Id.D.R. for the Revenue.

4. The Id.C.A. for the appellant submitted that the appellant is not contesting the service tax liability, which has already been paid along with applicable interest even before issue of show-cause notice. The only prayer in the present appeal is that penalty imposed may be set aside. In this connection, he relied on many decisions including the following:

(i) ESSAR Steel Ltd. Vs. CCE : 2009 (13) STR 579 (Tri.-Ahmd.) ;

(ii) Bharat Forge Ltd. Vs. CCE : 2016 (42) STR 312 (Tri.-Mum.) ;

(iii) CCEx.Vs. Core Fitness Pvt. Ltd. : 2017 (4) GSTL 80 (Tri.-Mum.).

5. The Id.D.R. for the Revenue justified the impugned order.

S.T. Appeal No. 162/10

7. The facts and circumstances in the present case are similar to the above referred case. Accordingly, we are of the view that the appellant deserves relief in the payment of penalty. Hence, we set aside the penalty ^{invoking} Section 80 of the Finance Act, 1994.

8. In the result, appeal is allowed.

(Dictated and pronounced in the open court)

sdl-
(P.K.Choudhary) U
Member (Judicial)
mm

sdt
(V.Padmānābhan) ✓
Member (Technical)

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v
[Handwritten initials]

6. The liability on reverse charge basis in respect of commission paid to foreign service providers for External Commercial Borrowings, stands admitted by the appellants. The service tax as well as applicable interest has also been paid even before issue of show-cause notice. This is not disputed or challenged. But it is prayed that the penalty may be set aside. Reliance has also been placed on several case laws.

7. we have carefully gone through the case laws cited by the Id.C.A. for the appellants. In the case of Bharat Forge Ltd. (supra) in similar set of facts, service tax liability arising out of External Commercial Borrowings are involved, the Tribunal observed as follows :

"5. We have considered the submissions of the learned counsel. We find that the appellant paid the service tax on 18-12-2007 whereas the show cause notice was issued on 11-8-2008 and adjudicated on 18-8-2011. The prompt payment of service tax even before the issue of show cause notice shows the genuineness of the appellant. It is a case of bona fide belief of the appellant that service tax was not payable. Even the Interest was paid soon after the passing of the adjudication order. Most importantly, it is seen that whatever tax is paid by the appellant is available to them as Cenvat credit. In such a situation, being a big company, we are of the view that the appellant had no intention to avoid payment of service tax which would have been available to them as Cenvat credit and non-payment would not result in any financial benefit. Therefore, in our considered view, the case deserves waiver of penalty under Section 80 of the Finance Act and we order so."

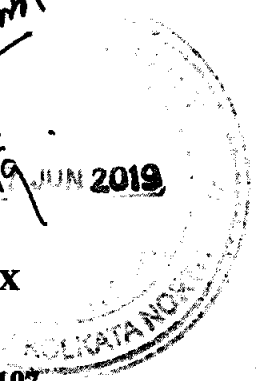
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17/06/19



Dameer
Suptd (T&R) 17/6/19
Smt S. Nandan
16/06/19

GOVERNMENT OF INDIA
OFFICE OF THE PRINCIPAL COMMISSIONER OF CGST & CX
KOLKATA NORTH COMMISSIONERATE
GST BHAWAN (2ND. FLOOR)
180, SHANTIPALLY, RAJDANGA MAIN ROAD, KOLKATA - 700107



C. No. V(30)73/RTI/T&R/CGST&CX/Kol-North(ST)/2018/
7384

dt.

17 JUN 2019

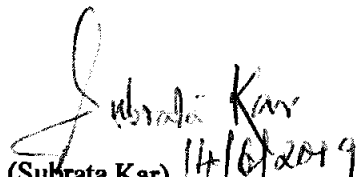
✓ To
The CPIO & Assistant Commissioner of CGST & CX,
Hq. RTI Cell, Kolkata North Commissionerate,
GST Bhawan, Kolkata - 700107.

Sub.: Seeking information under RTI Act 2005 - case of RTI application of Shri Ram Ratan Roy, Jt. G.M. (Credit Control), Electosteel Castings Ltd., - regarding.

Please refer to the subject mentioned above in relation to your letter under C. No. V(30)72/RTI/HQ/CGST&CX/Kol North/2019/5687 dt. 06.12.2019.

In this connection, this is to inform that the matter concerning CESTAT Final Order No. 76976/2018 dt. 02.11.18 is presently under process.

This is for your kind information and necessary action please.


(Subrata Kar) 14/6/2019
Assistant Commissioner (T&R)
CGST & CX
Kolkata North Commissionerate