

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
38, MG Marg Civil Lines, Old Red Building, Allahabad-211001
Regional Branch, Allahabad

Dated: 29/12/2016

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/71171/2016-SM|BRI dated 26/12/2016

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 35-C(1) of the Central Excise and Salt Act, 1944.


 Asstt. Registrar

Application	Appeal	Name and Address of Appellant
1	E/Stay/1160/2010 E/1103/2010	PARVEZ SHOES PVT. LTD. 150, Feet Road, Jajmau, Kanpur
		Name and Address of Respondent
2		-C.C.E. KANPUR 117/7, Sarvodaya Nagar, Kanpur 208005.

Copy ToAdvocate(s) / Consultant(s):

3 Bar Association, CESTAT, Allahabad

4 Director Publications, Customs, Excise. I.P. Estate, Delhi

5 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, New Delhi-3

6 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17

7 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005

8 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)

9 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070

10 Mark Professional Services Pvt. Ltd., 108, Everest Block. Aditya Enclave, Hyderabad - 38

11 The ICFAI society, 52, Nagarjuna Hill, Punjagutta Hyderabad.-500082

12 M/S Knowledge Processing Pvt. Ltd.(taxmanagementindia.com), FF-19, 1st Floor, Cross River Mall, CBD Ground, Near Karkardooma Court, Delhi-110032

13 C.D.R.

14 Office Copy

15 Guard File


 Asstt. Registrar

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
REGIONAL BENCH : ALLAHABAD**

Appeal No.E/1103/2010-EX[SM]

Arising out of Order-in-Appeal No.05-CE/APPL/KNP/2010 dated 12.01.2010 passed by Commissioner (Appeals) Customs & Central Excise, Kanpur.

M/s Parvez Shoes (P) Ltd.

...APPELLANT(S)

VERSUS

Commissioner of Central Excise, Kanpur

...RESPONDENT (S)

APPEARANCE:

(On merit) None for the Appellant (s)

Shri D.K. Deb, Asstt. Commr. (A.R.) for the Department (s)

CORAM:

HON'BLE MR. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)

DATE OF HEARING & PRONOUNCEMENT : 26.12.2016

FINAL ORDER NO.- 71171/2016

Per Mr. Anil G. Shakkarwar:



This appeal is filed by the appellant, M/s Parvez Shoes Pvt. Ltd., against Order-in-Appeal No.05-CE/APPL/KNP/2010 dated 12.01.2010 passed by Commissioner (Appeals), Kanpur.

2. The brief facts of the case are that the appellants were availing small scale exemption under Notification No.08/2003-CE. On inspection, Revenue came to know that the appellant was manufacturing shoes with brand name "RHINOTUFF". Therefore, show-cause-notice dated 15.06.2009 was issued to the appellant in respect of Shoes manufactured with brand name where exemption under said notification was availed by the appellant. The said show-cause-notice

demanded Central Excise duty amounting to Rs.1,67,082/- + Education cess Rs.3,342/- + H. Education cess Rs.1,239/-. There were proposals for interest and penalty. The said show-cause-notice was adjudicated through Order-in-Original No.72/Dem/ACK-III/09 dated 31.08.2009. The Original Authority has gone through the submission and held that the goods were bearing brand name and therefore, confirmed the demand of Rs.1,70,424/- and imposed equal penalty. Further, the appellants were directed to pay interest. The appellant preferred appeal before Ld. Commissioner (Appeal). The appeal was decided through Impugned Order-in-Appeal dated 12.01.2010. The Ld. Commissioner (Appeals) held that the goods were bearing brand name and therefore, he did not interfere with the Order-in-Original dated 31.08.2009. Aggrieved by the said Order-in-Appeal, the appellant is before this Tribunal.

3. The main ground of appeal is, whether a small sticker carrying ^{the name} ~~on the~~ "RHINOTUFF" on the industrial safety boot indicates that it is a brand name. The appellant contended that they were eligible to avail the benefit of said Notification No.8/2003.

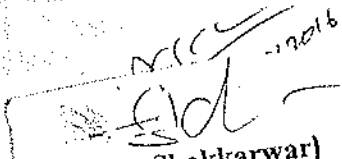
3.1 The appellant through their letter dated 23.11.2016 requested to decide issue on merit.

4. The Ld. DR for Revenue has submitted that it is categorically established in the proceedings before Lower authority that the appellants were manufacturing shoes bearing brand name.

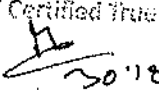
5. Having considered the rival contentions as stated above and on perusal of record, I find that the appellant has admitted of having fixed "RHINOTUFF" stickers on the shoes. Therefore, I find that they were not eligible for availment of benefit of notification No.8/03 in respect of goods on which above stated stickers were pasted or affixed. I, therefore, find no merit in the appeal, and therefore, I dismissed the appeal.

(Dictated & pronounced in the open Court)

Mishra


(Anil G. Shakkarwar)
Member (Technical)

प्रमाणित प्रति / Certified True Copy


2012
उपस्थित न्यायाधीश / Asst. Registrar
अभियुक्त, न्यायाधीश के पास कर
अपील नं. (E/1103/10) (S.T.A.T.)
38, एम. जी. मार्ग, अलीगढ़-201001
38, M. G. MARG, ALIGADH-201001