FAX : 0532-2400149

REGISTERED / AD

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

Dated: 28/09/2016

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/70908/2016-EX[DB] dated 07/06/2016.

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/2190/2006	TAYAL STEELS PVT.LTD. C/O ANIL KUMAR TAYAL, 148 DWARIKAPURI, MUZZAFFARNAGAR-UP-251001
		Name and Address of Respondent
2		-C.C.E. MEERUT I EXCISE CHOWK, UNIVERSITY ROAD, MANGAL PANDEY NAGAR, MEERUT - 250005.

Copy To

3 Advocate(s) / Consultant(s):

AALOK ARORA
82-MISSION COMPOUND,
SAHARANPUR-247001

4 Bar Association, CESTAT, Allahabad

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

6 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, New Delhi-3
7 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17
8 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005
9 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)
10 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070
11 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad -- 38
12 The ICFAI society, 52, Nagarjuna Hill,Punjagutta Hyderabad.-500082
13 M/S Knowledge Processing Pvt. ltd.(taxmanagementindia.com),FF-19,1st Floor,Cross River Mall,CBD Ground,Near Karkardooma Court,Delhi-110032
14 C.D.R. ~~15~~ Office Copy ~~16~~ Guard File

Asstt. Registrar

27/10/16
ISSUED ON

SIGN. (DESPATCH SECTION)
CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
38, M. G. MARG, ALLAHABAD-211001.

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

Appeal No.E/2190/2006-EX[DB]

Arising out of Order-in-Appeal No.50-CE/MRT-I/2006 dated 31.03.2006 passed by Commissioner (Appeals) Customs & Central Excise, Meerut-I.

For approval and signature:

HON'BLE MR. ANIL CHOUDHARY, MEMBER (JUDICIAL)
HON'BLE MR. ANIL G. SHAKKARWAR, 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? : No
2. Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not? : Yes
3. Whether His Lordship wishes to see the fair copy of the Order? : Seen
4. Whether Order is to be circulated to the Departmental Authorities? : Yes

---

M/s Tayal Steels Pvt. Ltd.

...APPELLANT(S)

VERSUS

CCE, Meerut-I

...RESPONDENT (S)

APPEARANCE:

Shri Alok Arora , Advocates for the Appellant (s)
Shri D.K Deb Asstt. Commissioner (A.R.) for the Department

CORAM:

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

DATE OF HEARING & PRONOUNCEMENT : 07.06.2016

FINAL ORDER NO.- 70908/2016

Per Mr. Anil G. Shakkarwar:

The present appeal is preferred against Order-in-Appeal No.50-CE/MRT-I/2006 dated 31.03.2006 passed by Commissioner (Appeals) Customs & Central Excise, Meerut-I.

2. The brief facts of the case are that the appellants were issued with a show-cause-notice dated 22.01.2001 calling upon them to show cause as to why Classification declaration No.II/TYAL/KHT/2000 effective from 01.04.2000 should not be amended to the extent that the rate of duty applicable in Column 5 of the said declaration be considered as 16% ad valoram instead of 60% of 16%, 80% of 16% and 16% for clearances upto Rs.50 lakh and after Rs.100 lakh respectively. The appellant submitted before Original Authority that they have deposited Rs.3,48,996/- on 28.02.2001 and 31.03.2001. The said show-cause-notice was adjudicated through Order-in-Original dated 25.05.2005. The Original Authority has held that the appellant was not entitled for the benefit of SSI under Notification No.9/2000 dated 01.03.2000, hence the Central Excise Duty amounting to Rs.3,48,996/- was recoverable from them. He has further order for confirmation of demand of duty of Rs.3,48,996/- and appropriated duty already paid. The said Order –in-Original was challenged before the Ld. Commissioner (Appeals). The Ld. Commissioner (Appeals) through Order-in-Appeal No.50/CE/MRT-I/2006 dated 31.03.2006 has held that he had no reason to interfere with the impugned Order-in-Original.

Further, in respect of payment of interest, the Ld. Commissioner (Appeals) has held that even if levy of interest is not specifically mentioned in the show cause notice or in the Order-in-Original, it is required to be paid. Challenge the order for recovery of interest by Ld. Commissioner (Appeals), the appellant is before this Tribunal.

3. The grounds of the appeal are that the demand of interest was neither in the show-cause-notice nor in the Order-in-Original. Therefore, the order of Ld. Commissioner (Appeals) to pay interest, is beyond the scope of show cause notice as well as adjudication order. Therefore, the demand of interest is liable to be quashed.

4. Heard the learned counsel. The learned counsel has argued that there was no mention of demand of duty as well as interest in the show-cause-notice and that the Original Authority has confirmed the demanded and appropriated duty paid and that he has not given any direction to pay interest. Further, the Ld. Commissioner (Appeals) has ordered through Order-in-Appeal to pay interest and such order is travelling beyond the show-cause-notice.

5. Heard the Ld. DR for Revenue, who has supported the impugned Order-in-Original and Order-in-Appeal.

6. We have taken into considerations the rival contentions. We find that the show cause notice does not call upon the appellant to show cause as to why interest should not be paid by them.

Therefore, the direction of Ld. Commissioner (Appeals) to the appellant to pay interest is beyond the scope of show cause notice. The order-in-Appeal ~~penalty~~ passed by Ld. Commissioner (Appeals) to that extent has traveled beyond show cause notice. Therefore, we set aside the interest ordered to be paid and Order-in-Appeal dated 31.03.2006 is modified to that extent. Thus, the appeal is allowed partially.

(Operative part of the order pronounced in the open Court)

Sd/-
(ANIL G. SHAKKARWAR)
MEMBER (TECHNICAL)

Sd/-
(ANIL CHOUDHARY)
MEMBER (JUDICIAL)

प्रमाणित प्रति / Certified True Copy
25.10.16
सहायक पंजीकार / Asstt. Registrar
सीमाशुल्क, उत्पादशुल्क एवं सेवा कर अपील अधिकरण (C.E.S.T.A.T.)
38, एम. जी. मार्ग, इलाहाबाद-211001
38, M. G. MARG, ALLAHABAD-211001