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: 15/09/2017

To

Appellant as per address in table below
Respondent as per address in table below

Final Order No. A/71011/2017-SM[BR] dated 08/09/2017

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/2518/2011	RAGHUVIR ROLLING MILLS Vilage- Malon, Chaubepur, Bithur Road, Kanpur.
		Name and Address of Respondent
2		-C.C.E. KANPUR 117/7, Sarvodaya Nagar, Kanpur 208005.

Copy To
3Advocate(s) / Consultant(s):

AMIT AWASTHI ADVOCATE
7/116A, H-1, 1ST FLOOR,
RADHEY APARTMENT,
SWAROOP NAGAR, KANPUR-
208002

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

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
Old Red Building, 38 M.G. Marg, Civil Lines, Allahabad – 211 001

COURT NO. II

DATE OF HEARING : 08/09/2017.
DATE OF DECISION : 08/09/2017.

Excise Appeal No. 2518 of 2011 (SM)

[Arising out of the Order-in-Appeal No. 161/CE/APPL/KNP/2011 dated 19/07/2011 passed by The Commissioner (Appeals), Customs, Central Excise & Service Tax, Kanpur.]

M/s Raghuvir Rolling Mills — Appellant

Versus

CCE, Kanpur — Respondent

Appearance

Shri Parnav Mittal, Advocate – for the Appellant.

Shri Mohd. Atlaf, Authorized Representative (DR) – for the Respondent.

CORAM: **Hon'ble Shri Ashok Jindal, Member (Judicial)**

Final Order No. 71011 /2017 Dated : 08/09/2017

Per. Ashok Jindal :-

The appellant has challenged demand of interest and penalty imposed on them under Rule 96 ZP of Central Excise rules, 1944 and penalty imposed on them under Rule 173Q of Central Excise Rules, 1944.

2. The learned Counsel for the appellant submits that as Rule 96 ZP of Central Excise Rules has been declared ultravires by the

Hon'ble Apex court in the case of **Shree Bhagwati Steel Rolling Mills vs. CCE** reported in **2015 (326) E.L.T. 209 (S.C.)**, therefore, the penalty on the appellant is not imposable. The learned Counsel further submits that as per decision of the Hon'ble Apex court in the case of **Hans Steel Rolling Mill vs. CCE, Chandigarh** reported in **2011 (265) E.L.T. 321 (S.C.)** when compounded levy scheme has been invoked, in that circumstances, normal scheme is not applicable and duty cannot be demanded under normal scheme. Therefore, the penalty under Section 173Q is not imposable on them.

3. Heard the learned Counsel for the appellant.

4. Considering the fact that the Hon'ble Apex court in the case of **Shree Bhagwati Steel Rolling Mills** (supra) has declared provision of Rule 96 ZP of Central Excise Rules, 1944 are ultravires, therefore, I hold that demand of interest and penalty imposed on the appellant under Rule 96 ZP is not sustainable.

5. Further, I find that a penalty of Rs. 10,000/- has been imposed on the appellant under Rule 173Q of the Central Excise Rules, 1944, I find that as the said penalty has been imposed under the said rules, which is not contested by the appellant on merits merely saying that as per the decision of Hon'ble Apex court in **Hans Steel Rolling Mill** (supra) normal scheme is not applicable. I find that in the case of **Hans Steel Rolling Mill** (supra) the Hon'ble Apex court held that duty cannot be demanded under normal scheme. In the said case, the Hon'ble

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Apex court has not decided the issue of penalty. In that circumstances, the penalty imposed under Rule 173Q of the Central Excise Rules, 1944 is confirmed against the appellant.

6. In this term, appeal is disposed of.

(Dictated and pronounced in open court.)

Sd/-

(Ashok Jindal)

Member(Judicial)

PK

प्रमाणित प्रति/Certified True Copy

27/09/17

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