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

To

Dated: 22/01/2018

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

Final Order No. **A/70236-70238/2018-EX[DB]** dated **16/01/2018**

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/CROSS/3023/2012	E/1377/2012	**Commissioner of Customs-Ghaziabad** 202...WING A C.G.O. COMPLEX-II, KAMLA NEHRU NAGAR, GHAZIABAD, UTTAR PRADESH 201002
2	E/CROSS/3021/2012	E/1378/2012	**Commissioner of Customs-Ghaziabad** 202...WING A C.G.O. COMPLEX-II, KAMLA NEHRU NAGAR, GHAZIABAD, UTTAR PRADESH 201002
3	E/CROSS/3025/2012	E/1379/2012	**Commissioner of Customs-Ghaziabad** 202...WING A C.G.O. COMPLEX-II, KAMLA NEHRU NAGAR, GHAZIABAD, UTTAR PRADESH 201002

	Name and Address of Respondent
4	Shanti Udyog E/118,b.s.road, Industrial Area, Ghaziabad.,,
5	Dinesh Mittal Prop M/s Mansa Steel,32/11 Industrial Area, South Side Of G T Road, Ghaziabad.(U.P.)
6	Mansa Steel 32/11 Industrial Area,s Outh Side Of G T Road, Ghaziabad (U.P)

Other Appellants and Respondents as per Annexure
Copy To
7Advocate(s) / Consultant(s):

LASA CONSULTANCY PVT LTD
D-60, GROUND FLOOR,
SECTOR-2, NOIDA
DISTRICT GAUTAM BUDDH NAGAR UP

8 Bar Association, CESTAT, Allahabad

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

10 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, Opp ICICI Bank of Defence Colony New Delhi-3

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

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

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

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

15 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38

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

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

18 C.D.R. 19 Office Copy 20 Second Folder Copy 21 Guard File

Asstt. Registrar

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

REGIONAL BENCH : ALLAHABAD

COURT No. I

APPEAL No. E/1377-1379/2012-EX[DB] With
CROSS Application No. E/CROSS/3021, 3023 & 3025/2012

(Arising out of Order-in-Appeal No. 29, 30 & 31-CE/GZB/2012 dated 16/02/2012 passed by Commissioner of Customs, Central Excise & Service Tax (Appeals), Ghaziabad)

Commissioner of Customs, Central Excise & Service Tax, Ghaziabad **Appellant**

Vs.

M/s Mansa Steel (In Appeal No. E/1377/2012),

Shanti Udyog(In Appeal No. E/1378/2012) &

Shri Dinesh Mittal (In Appeal No. E/1379/2012),

Respondent

Appearance:

Shri Gyanendra Kumar Tripathi, Assistant Commissioner (AR), for Appellant

Shri M. B. Mathur, Advocate, for Respondent

CORAM:

Hon'ble Mr. Ashok Jindal, Member (Judicial)
Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing & Date of Decision : 16/01/2018

FINAL ORDER NO. 70236-70238/2018

Per: Ashok Jindal

The present appeals are filed by the Revenue against the impugned orders.

2. The brief facts of the case are that M/s Mansa Steel – respondent was engaged in the manufacture of M. S. Flat & M. S. Square, under the proprietorship of Shri Dinesh Mittal. There was another Unit namely M/s Shanti Udyog was also manufacturing the same goods under the proprietorship of

Shri Rajeshwar Kumar Mittal, father of Shri Dinesh Mittal. Both the Units are located at different locations and registered with Central Excise Department and availing SSI Exemption under Notification No. 08/2003 dated 01/03/2003. Revenue was of the view that as both the units are run by same family member, therefore, the clearances of the same are to be clubbed together. Consequently, the Show Cause Notice was issued and the matter was adjudicated. The clearances of M/s Shanti Udyog were clubbed with clearances of M/s Mansa Steel. Subsequently, duty was demanded along with interest and penalties on the appellants were imposed. Against the order, the respondent challenge the said order before the ld. Commissioner (Appeals) who after examining the findings placed on record has set aside the order of adjudication. Against the said order, Revenue is in appeal before us.

3. Heard both the sides and considered the submissions.

4. On perusal of the record, we find that that the facts which are not in dispute are as under:-

(a) Both the Units are run by to separate person under proprietorship of Shri Dinesh Mittal & Shri Rajeshwar Kumar Mittal, respectively.

(b) Both are son and father.

(c) Both the Units are located at distance of 10 km. and registered with Central Excise Department.

Ashoy

As the above facts are not in dispute. Moreover, there is no evidence on record that both the units were run by one person and there is flow back of money between parties and they are having mutual interest in the business of each other, without these evidences, the clearances made by M/s Shanti Udyog cannot be clubbed along with clearance made by M/s Mansa Steel.

6. In that circumstance, we do not find any infirmity in the impugned order, the same is upheld.

5. In result, appeals filed by the Revenue are dismissed. Cross Objections are also stands disposed of in above terms.

(Dictated in Court)

Sd/-
Anil G. SHAKKARWAR
(MEMBER TECHNICAL)

Sd/-
ASHOK JINDAL
(MEMBER JUDICIAL)

Ansari

प्रमाणित प्रति/Certified True Copy
26/02/18
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