

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
EXCISE APPEAL BRANCH

Appeal No. E/1015/2005

Date 11/12/2007

Assistant Registrar
C.E.S.T.A.T, New Delhi

To :
M/S MIDEST MIGRATED STEELS LTD.
11-1, ZAMRUDPUR COMMUNITY CENTER KAILASH
COLONY NEW DELHI

M/S MIDEST MIGRATED STEELS LTD.

Appellant

Vs

Respondent

C.C.E.BHUBANNESHWAR

I am directed to transmit herewith a certified copy of Final order No. 581/07 Excise dated 30-11-07 passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944

B. S. R.
Assistant Registrar
(Excise Appeal Branch)

Copy to :

1. Respondent

C.C.E.BHUBANNESHWAR

C.R.BUILDING RAJASWA VIHAR BHUBANESHWAR
ORRISA

2. Adv. / Consult

SH. SIBAL & ERADI

*B-31, CONNAUGHT PLACE,
N. DELHI-1*

3. S.D.R.

~~4. J.C.D.R.~~

5. Bar association. CESTAT, New Delhi

6. M/s. Deeparchi Publications, M-93, marg. 43, saket, New

7. M/s Centax Publications (P) Ltd., 1512-E, Bhishm Pitamah

8. Excise & Customs cases, B-37, Sector -1, NOIDA - 201301

9. R. Venkatraman Constt. 44-B, S.Suncity, Ghaziabad -

10. Nidheshak publications, I.P.Estate, new Delhi

11. Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh,

12. Co, Law Institution

13. TAX INDIA, B-XI/8183, Vasant Kunj, New Delhi - 110070

14. Office Copy

15. Guard file

B. S. R.
Assistant Registrar
(Excise Appeal Branch)

IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, NEW DELHI
COURT NO. II

Excise Appeal No. 1015 of 2005

(Arising out of Order-in-Appeal No. 154/BBSR-1/04 dated 14.5.2004 passed by the Commissioner (Appeals), Central Excise & Customs, Bhubaneswar)

For approval and signature

HON'BLE MR. S.S. KANG, VICE PRESIDENT
HON'BLE DR. T.V. SAIRAM, 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?	
2.	Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	b>
3.	Whether their Lordships wish to see the fair copy of the order?	
4.	Whether order is to be circulated to the Departmental authorities.	

M/s Mideast Integrated Steels Ltd.

Appellant

Vs.

CCE, Bhubaneswar

Respondent

Appearance:

None - For appellant.
Shri A.N. Sharma, Jt. CDR - For respondent

CORAM:

HON'BLE MR. S.S. KANG, VICE PRESIDENT
HON'BLE DR. T.V. SAIRAM, MEMBER (TECHNICAL)

Date of Hearing: 30.11.07

Revised Order No. 581/2007EXdated 30-11-07

Per S.S. Kang :

When the case was called none appeared on behalf of the appellant.

2. The appellant filed this appeal against the impugned order whereby demand of Central Excise duty was confirmed and penalties were also imposed. The brief facts of the case are that the appellants are 100% EOU and they were receiving raw material without payment of duty for specified use. The Revenue confirmed the demand on the ground that as per the conditions stipulated in the Letter of Permission dated 3.12.93, the appellants were required to start commercial production within three years from the date of Letter of Permission which the appellant has failed to do so. Accordingly, vide letter dated 21.12.2001 the Development Commissioner informed that no further extension beyond 31.3.2002 would be considered. In these circumstances, the case of the Revenue is that as the appellant's unit is not a 100% EOU after 31.3.2002 hence the appellants are not eligible to benefit of exemption availed by them under Notification No 57/94-CE and Notification No. 1/95-CE.

3. Now, the appellant filed a Misc. application to submit that the competent authority vide letter dated 24.3.2005 granted extension in respect of Letter of Permission dated

3.12.93. On receipt of this Misc. application, the Id. SDR obtain comments from the Commissioner of Central Excise and in his letter dated 26th Sept. 2007 the fact regarding extension of time is admitted.

4. In these circumstances, as now there is a change of circumstances, therefore, we find it is a fit case for re-consideration by the adjudicating authority. The impugned order is set aside and the matter is remanded to the adjudicating authority to decide afresh after affording an opportunity of hearing to the appellant. The appeal is disposed of by way of remand.

(Dictated & pronounced in open Court)

(S.S. KANG)
VICE PRESIDENT

(DR. T.V. SAIRAM)
MEMBER (TECHNICAL)

RM