

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

Appeal No. E/2694/2002

Date 30/08/2007

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

To :  
M/S TIN MANUFACTURING COMPANY OF INDIA  
95-96, RAJENDRA NAGAR, GHAZIABAD UTTAR  
PRADESH

M/S TIN MANUFACTURING COMPANY OF INDIA

Appellant

C.C.E. MEERUT I

Vs  
Respondent

I am directed to transmit herewith a certified copy of Final order No. 478/07-EX, dated 16-8-07  
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944

  
Assistant Registrar  
(Excise Appeal Branch)

**Copy to :**

1. Respondent

C.C.E. MEERUT I

EXCISE CHOWK, UNIVERSITY ROAD, MANGAL  
PANDEY NAGAR, MEERUT - 250005.

2. Adv. / Consult

SH. A.P. MATHUR, ADV.,  
167, TAGORE TOWN,  
(NEAR RAMLA NEHRU HOSPITAL)  
ALLAHABAD

3. ~~E.D.R.~~

~~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

  
Assistant Registrar  
(Excise Appeal Branch)

**IN THE CUSTOMS, EXCISE & SERVICE TAX  
APPELLATE TRIBUNAL  
West Block No.2, R.K. Puram, New Delhi-110066.  
Principal Bench, New Delhi**

**COURT NO. II**

**Excise Appeal No. 2694 of 2002**

[Arising out of the Order-in-Original No. 27/Comm/MI/2002 dated 03.09.2002 passed by The Commissioner of Central Excise, Meerut.]

For approval and signature:

**Hon'ble Mr. S.S. Kang, Vice President**

**Hon'ble Mr. C.N.B. Nair, Member (Technical)** (

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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?
  3. Whether their Lordships wish to see the fair : copy of the order?
  4. Whether order is to be circulated to the : Department Authorities:

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M/s Tin Manufacturing Company of India

Appellant

Versus

CCE, Meerut

Respondent

**Appearance**

Shri A.P. Mathur, Advocate - for the appellant.

Shri Sanjay Kumar, Authorized Representative (DR) - for the respondent.

CORAM: Hon'ble Mr. S.S. Kang, Vice President  
Hon'ble Mr. C.N.B. Nair, Member (Technical)

**DATE OF HEARING : 16/08/2007.**

Final Order No. 478/2007 EX Dated: 16-8-07

**Per. S.S. Kang :-**

Heard both sides. Appellant filed this appeal against the impugned order passed by Commissioner of Central Excise, whereby demand of Rs. 5,46,47,223/- was confirmed and penalty for Rs. one crore was imposed on the ground that appellant manufactured and cleared excisable goods without payment of duty.

2. We find, the present impugned order is passed in pursuance to the remand order dated 01/07/1997 passed by the Tribunal. While remanding the matter, the Tribunal gives certain directions.

3. The appellant pointed out that in the present impugned order, the Commissioner of Central Excise simply reproduced the earlier adjudication order and confirm the demand. The

appellant relied upon the para '19' of the present impugned order. The contention is that when the matter is remanded for fresh decision, the order should be passed on the merits of the case after considering the issue raised and not merely by re-producing the earlier order, which is already set aside by the Tribunal. The contention is that the issue is raised by the appellant were not taken into consideration while passing the present impugned order.

4. We have gone through the impugned order in para '19' of the impugned order, the Commissioner held as under :-

"19. My predecessor had gone through the various records resumed and documents of the instant case and examined the above three contentions on the basis of facts available on records and his findings on all these contentions were :-

(Thereafter the earlier order was reproduced).

5. In these circumstances, as Commissioner of Central Excise in the present impugned order has not decided on merits of the case and had not complied with the direction given in the remand order passed by the Tribunal and simply re-produced earlier impugned order and confirm the demand,

hence is not sustainable. The impugned order is set aside and the matter is remanded to the Adjudicating Authority to decide the matter afresh and to pass a speaking order on the merits of the case after taking into consideration and evidence of record and the contention raised by the appellant. Appeal is disposed of by way of remand.

(Dictated and pronounced in the open court)

**(S.S. Kang)**  
**Vice President**

**(C.N.B. Nair)**  
**Member (T)**

PK