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

Appeal No. E/2696/2004 Date 30/04/2008

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

To :
C.C.E. JALLANDHAR(HQ. AT CHANDIGARH)
C.R.BUILDING, PLOT NO. 19, SECTOR 17-C,
CHANDIGARH.
C.C.E. JALLANDHAR(HQ. AT CHANDIGARH) Appellant
Vs
M/S RAM INDUSTRIES Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 210/08 **Excise** dated 20-3-08 passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(Excise Appeal Branch)

Copy to :
1. Respondent
   M/S RAM INDUSTRIES
   SANT NAGAR, JALANDHAR
2. Adv. / Consult SH. SUDHIR MALHOTRA, ADV.
   13-R, HUKAM CHAND COLONY,
   NEAR DAV COLLEGE, JALANDHAR
3. S.D.R.
4. ~~J.C.D.R.~~
5. Bar association, CESTAT, New Delhi
6. M/s. Deeparchi Publications, M-93, Marg. 46, Saket, New Delhi 110017
7. M/s Centax Publictions (P) Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi -
8. Excise & Customs cases, B-37, Sector -1, NOIDA - 201301 Gautam Budh Nagar, (U.P.)
9. Raghuraman's 44-B, Regal Flat,Shipra Suncity, Indirapuram - 201010,Ghaziabad, DT, U.P.
10. Nidheshak publications, I.P.Estate, new Delhi
11. Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh, New Delhi - 110026
12. Commercial Laws of India Pvt Ltd Post Bag No. 1033, No.70(Old No. 88), Thyagaraya Road, T. Nagar,Chennai 60017
13. Taxindiaonline.com Pvt.Ltd, 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

COURT – II

EXCISE APPEAL No. 2696 OF 2004-DB

[Arising out of Order-in-Appeal No. 165-166-CE/CHD/2004 dated 27.02.2004 passed by the Commissioner (Appeals), Customs & Central Excise, Chandigarh]

For approval and signature:

Hon'ble Mr. S.S. Kang, Vice President,
Hon'ble Mr. B.S.V. Murthy, 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 would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	No
3.	Whether their Lordships wish to see the fair copy of the order?	Yes
4.	Whether order is to be circulated to the Departmental authorities?	no

CCE, Jalandhar — Appellant

Vs.

M/s. Ram Industries — Respondent

Appearance:
Shri V.K. Agarwal, JDR for the Revenue
Shri Sudhir Malhotra, Advocate for the respondent

Coram:
Hon'ble Mr. S.S. Kang, Vice President,
Hon'ble Mr. B.S.V. Murthy, Member (Technical)

Date of Hearing:20th March, 2008

FINAL ORDER NO. 210/08-EX dated ________

Per S.S. Kang:

Heard both sides.

2. Revenue filed this appeal against the impugned order whereby demand of Rs. 44,221 and penalty were set aside by the Commissioner (Appeals).

3. Case of the Revenue is that respondents are manufacturing branded goods with brand name of 'SMITH' and have availed the benefit of SSI Exemption Notification. The goods cleared with the brand name to M/s. Smith Enterprises who are traders and traders are not entitled for the benefit of SSI Exemption notification. The case of the Revenue is that the goods manufactured by the respondents have the brand name 'SMITH' embossed on it. Therefore, demand was rightly made.

4. Respondents submitted that at the time of visit by the Revenue officers, no branded goods were recovered from the premises of the respondents and no facility of casting was available. Contention of the respondents that the branded Breast Drills were not manufactured by the respondents. Therefore, the impugned order is rightly passed.

5. We find that brand name SMITH was embossed on the goods manufactured and cleared by the respondents. The respondents admitted the fact that they are clearing Breast Drill to M/s. Smith

Enterprises. As the Breast Drills are having brand name 'SMITH', hence, we find merit in the appeal filed by the Revenue. Appeal is allowed. The demand confirmed by the Adjudicating Authority is restored and keeping in view the fact and circumstances of the case the respondents are liable to penalty of Rs. 5000/-. Appeal is disposed of as indicated above.

(Dictated & pronounced in the Open Court.)

(S.S. KANG)
VICE PRESIDENT

(B.S.V. MURTHY)
MEMBER (TECHNICAL)

Dated 24th March, 2008

RK