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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

Date 22/05/2008

Appeal No. E/3875/2004-3878/2004

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

To :
CUSTOMS & CENTRAL EXCISE, INDORE (M.P.)
COMMISSIONER CUSTOMS & CENTRAL EXCISE, P.B.
NO. 10 MANIK BAGH PALACE, INDORE (M.P.)
CUSTOMS & CENTRAL EXCISE, INDORE (M.P.)

Appellant
Vs
Respondent

M/S MAGNUM STEELS LTD.

I am directed to transmit herewith a certified copy of **Final order No.** 273-276/2008-EX **Excise** dated 30-4-08

passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(Excise Appeal Branch)

4. SH. V.B. GUPTA,
3. SH. L.C. JINDAL, DIRECTOR
2. SH. ALOK MAHESHWARI

Copy to :
1. Respondent
M/S MAGNUM STEELS LTD.
M/S MANGUM STEELS LTD, INDUSTRIAL AREA, BANMORE DISTT. MORENA (M.P.)
2. Adv. / Consult SH, V.K. AGRAWAL, ADV.,
7 & 8, GROUND FLOOR,
L-92/3, MUNIRKA, MAIN MARKET,
CELL HOUSE, N. DELHI
3. C.D.R.
~~4. I.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-110066.
Principal Bench, New Delhi.

E/3875-78/04

[Arising out of Order-in-Appeal No.GWL/186 to 189/04 dt.22.4.04 passed by the Commissioner(Appeals), Indore)

For approval and signature:

Hon'ble Mr. S.S. KANG, VICE PRESIDENT
Hon'ble Mr. RAKESH KUMAR, 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?		yes
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 Department Authorities:	:	no

CCE, Indore — Appellant

Versus

M/s. Mangnum Steels Ltd. — Respondent

Appearance

Shri Sanjay Kumar, Authorised Representative(DR) For Appellant

Sh. V.K.Agarwal, Adv. For Respondent

Coram: Hon'ble Mr. S.S. KANG, VICE PRESIDENT
Hon'ble Mr. RAKESH KUMAR, MEMBER TECHNICAL

Date of decision: 30.4.08
FINAL Order No. 273 - 276 / 08 - EX

Per S.S.Kang:

Common issue is involved, therefore, appeals are being taken up together.

2. Heard both sides. The revenue filed these appeals against the common impugned order whereby demand and penalties are set aside on the ground of violation of principles of natural justice as opportunity of cross examine the witness was not allowed by the adjudicating authority. The contention of the appellant is that they want to cross examine by investigating officers as some statements were recorded during the investigation which was not on record and the same were against the revenue. The contention is that as the same evidence which was collected during the investigation was withheld by the revenue, therefore, the cross examination of investigated officer is necessary. In respect of cross examination of another person Shri Shambhu Kedia, the appellant submitted that he has not been examined during the investigation, therefore, they will not ask for examination of Shri Kedia.

3. The contention of revenue is that the statements which the appellant wants to bring on record are not relied upon by the revenue.

4. We find that Commissioner(Appeals) in the impugned order set aside the demand and penalty only on the ground of violation of principles of natural justice without going into merit as well as the issue of limitation. We find that in the adjudication order, there is no finding regarding denial of cross examination. However, the Commissioner(Appeals) set aside the adjudication order on this ground. We find that cross examination of investigation officer was necessary. as some evidence collected during investigation were not brought on record. In these circumstances, the impugned order is set aside and the matter is remanded back to the adjudicating authority for denovo adjudication and adjudicating authority will grant an opportunity of cross examination of investigating officer only

and also grant opportunity of hearing. The impugned order is set aside and the appeals are allowed by way of remand.

Order dictated in the open Court.

(S.S.Kang)
Vice President

(Rakesh Kumar)
Member Technical

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