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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/4350/2004 Date 11/07/2008

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

To :
SACO ALLOYS PVT LTD

A-806-A, INDL. AREA, PHASE-II, BHIWADI,
RAJASTHAN
SACO ALLOYS PVT LTD Appellant

Vs

C.C.E. JAIPUR I Respondent

I am directed to transmit herewith a certified copy of **Final order No**.439/2008- **Excise** dated 9-7-08

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. JAIPUR I

   N.C.R.BUILDING, STATUE CIRCLE, "C" SCHEME, JAIPUR 302005.
2. Adv. / Consult

   MR.R. SANTHANAM

   C-3/210, JANAK PURI, NEW DELHI - 110 058.
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)

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

Court No.III

Date of hearing: 1.7.2008
Date of pronouncement: 9. 7.2008

Central Excise Appeal No.4350 of 2004

Arising out of the Order in appeal No.206 (SN) CE/JPR I/2004 dated 10.6.04 passed by the Commissioner ,Central Excise (Appeals I) , Jaipur.

For Approval and Signature:

Hon'ble Mrs. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. M. Veeraiyan, Member (Technical)

1	Whether Press Reporter may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	No
2	Whether it should be released under Rule 27 of 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?	Seen
4	Whether Order is to be circulated to the Departmental authorities?	Yes

Appellant(s) Respondent

M/s Saco Alloys (P) Ltd. vs. C.C.E., Jaipur

Appearance:

Shri R. Santhanam, Advocate for the appellant(s) and
Shri S. Kumar, Authorized Departmental Representative (DR) for the Revenue

Coram: Hon'ble Mrs. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. M. Veeraiyan, Member (Technical)

Final Order No. 439/08-EX

Per Archana Wadhwa:

Inasmuch as the Commissioner (Appeals) has dismissed the appeal for non-compliance with the provisions of Section 35F of the Act, we take up the appeal itself for final disposal. It is seen that the penalty equivalent to 100% of duty stands imposed by the authorities below, in terms of the provisions of Rule 96ZO(3) of Central Excise Rules, 1944 for late deposit of the duty confirmed under compounded levy scheme. As for the ~~appellant~~'s delay in depositing the duty ranges from 15 to 20 days, in any case, the duty was deposited within that month only, which would only attract penalty to the extent of Rs.5000/- only. For the above proposition, reliance is placed on the following decisions:

a) *Ambuja Synthetics Mills vs. UOI – 2004 (175) ELT 85 (Guj.)*

b) *Mullaji Prints Pvt. Ltd. vs. UOI – 2005 (191) ELT 90 (Guj.)*

c) *Navrant Dyeing & Printing Mills vs. UOI – 2005 (192) ELT 41 (Guj.).*

2. Inasmuch as the Commissioner (Appeals) has not decided the issue on merits, we set aside the impugned order and remand the matter to the appellate authority for fresh decision on merits without insisting on any pre-deposit. The appellant is at liberty to refer and rely on the decision of judicial or quasi-judicial authorities in support of their plea of imposition of no penalty or less penalty. The appeal is thus, allowed by way of remand.

(Pronounced in the open Court on 9 .7.2008)

(Archana Wadhwa)
Member (Judicial) 7/7/08

(M. Veeraiyan)
Member (Technical) 7/7/08

scd/