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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/2710 & 6120/2004 - EX[DB] Date 06/03/2009

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

To :
M/S MARKFED HDPE SACKS PLANT
ANANDPUR SAHIB DISTT-ROPAR
M/S MARKFED HDPE SACKS PLANT — Appellant

Vs

C.C.E. LUDHIANA — Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 187-188/2009- **EX[DB]** dated 20-2-09

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. LUDHIANA
   CENTRAL EXCISE HOUSE, 'F' BLOCK, RISHI NAGAR, LUDHIANA 141001 (PUNJAB)
2. Adv. / Consult
   MR.JOY KUMAR
   FLAT NO 261/1,SEC 45-A,CHANDIGARH.

3 C.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 - 3
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
13 Taxindiaonline.com Pvt.Ltd, B-XI/8183,Vasant Kunj, New Delhi - 110070
14 Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road,Ahmedabad-15
15 Office Copy
16 Guard file

Assistant Registrar
(Excise Appeal Branch)

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

Excise Appeal No. 2710 & 6120 of 2004

[Arising out of Order-in-Appeal Nos. 65/CE/APPL/Ldh/04 dated 25.2.2004 and 448/CE/APPL/Ldh/04 dated 13.7.2004 both passed by Commissioner of Central Excise, Ludhiana.]

For approval and signature:

Hon'ble Mr. M. Veeraiyan, Member (Technical)
Hon'ble Mr. P.K.Das, Member (Judicial)

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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 should 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 Departmental authorities? :

NO

M/s. Markfed HDPE Sacks Plant — Appellant

Vs.

Commissioner of Central Excise
Ludhiana — Respondent

Appearance:

None for the Appellant
Mr. S.N. Srivastava, DR for the Respondent

CORAM:

Hon'ble Mr. M. Veeraiyan, Member (Technical)
Hon'ble Mr. P.K.Das, Member (Judicial)

Date of Hearing/Decision: 20.2.2009

FINAL **ORDER NO. 187-188/09-EX**

Per P.K.Das (for the Bench):

None appeared on behalf of the appellant. It appears from the record that the appellant did not turned up in the earlier occasions. In view of that, it appears that the appellant is not interested to proceed in these appeals. Therefore, both the appeals are dismissed for non-prosecution.

(Dictated & Pronounced in the open Court)

(M. Veeraiyan)
Member(Technical)

(P.K.Das)
Member(Judicial)

ss

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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/2710/2004 Date 22/10/2007

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

To :
M/S MARKFED HDPE SACKS PLANT
ANANDPUR SAHIB DISTT-ROPAR

M/S MARKFED HDPE SACKS PLANT Appellant
Vs
C.C.E. LUDHIANA Respondent

I am directed to transmit herewith a certified copy of Final order No. 515/07-EX. dated 25-9-07 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. LUDHIANA

   CENTRAL EXCISE HOUSE, 'F' BLOCK, RISHI NAGAR,
   LUDHIANA 141001 (PUNJAB)

2. Adv. / Consult

   MR.JOY KUMAR

   FLAT NO 261/1.SEC 45-A.CHANDIGARH.

3. C.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 Publictions (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 AND SERVICE TAX APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
COURT NO. III

Excise Appeal No. 2710 of 2004

[Arising out of Order-in-Appeal No. 65-CE/APPL/LDH/2004 dated 27.1.04 passed by Commissioner of Central Excise (Appeals), Ludhiana].

For approval and signature:

Hon'ble Dr. T.V. Sairam, Member (Technical)
Hon'ble Mr. P.K. Das, Member (Judicial)

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 should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not? : Yes
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

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Markfed HDPE Sacks Plant — Appellant

Vs.

Commissioner of Central Excise
Ludhiana — Respondent

Appearance:

None for the Appellant
Shri V.K. Agarwal, DR for the Respondent

CORAM: Hon'ble Dr. T.V. Sairam, Member (Technical)
Hon'ble Mr. P.K. Das, Member (Judicial)

Date of decision : 25.9.2007

Final **ORDER NO . 515/2007 EX**

Dr. T.V. Sairam (for the Bench):

The appellants are challenging the order of Commissioner (Appeals) dated 27.1.04. When the matter was called, none represented the appellants. After hearing the Learned DR at length and perusing the record, we find that the grounds made in the appeal petition by the appellants is based on the fact that, the impugned order was bad in law since the adjudicating authority while passing the order had directed the jurisdictional Range Officer to quantify the amount of duty leviable on them. In this context, they are relying upon the ratio of the decision of this Tribunal in Pure Drinks New Delhi vs. CCE New Delhi reported in 2000 (117) ELT 760 (Tri), in which it was held that the adjudicating authority cannot delegate the powers to quantify the demand. They have also relied upon this Tribunal's order in the case of M/s. Daylight Plastic Industries vs. CCE, Surat reported in 2000 (119) ELT 592 for the proposition that the penalty could be imposed only after determining the duty amount.

2. Learned DR however, draws our attention to the impugned order in which the following fact appears:-

"*After following the Adjudication procedure the deduction on account of element of Central Excise duty paid on raw material from the assessable value of woven sacks/bags was allowed and Range officer was directed to recalculate the amount of duty payable after giving benefit of such deduction and recover the amount from* *them under Section 11A of Central Excise Act, 1944. Deputy Commissioner, Central Excise Division, Ropar vide letter dated 14.3.2002 reported the duty involved as Rs.19,80,650/- and penalty of Rs.2,00,000/- was imposed on them under Rule 173Q of Central Excise Rules, 1944 along with recovery of interest under Section 11AB of Central Excise Act, 1944."*

3. In view of the above, it is clear that the duty stands requantified to Rs.19,80,650/- We also notice that the penalty imposed on the appellants is Rs.2 lakhs which appears to be commensurate to the offence established. Considering the facts and circumstances of the matter and going through the record, we do not find any need for altering the impugned order in any way as we find that penalty imposed is proportionate to the offence spelt out in the order of the authorities below. The appeal is therefore, dismissed.

(Dictated in the open Court)

(Dr. T.V. Sairam)
Member(Technical)

(P.K. Das)
Member(Judicial)

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