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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/635 -636 /2006 - EX[DB]   Date 06/11/2009

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

To :
M/S TATA CHEMICALS LTD.
FERTILISER DIVISION, INDIRA DHAM, BABRALA
DISTT.-BUDAUN (U.P)
M/S TATA CHEMICALS LTD. Appellant
Vs
C.C.E. MEERUT II Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 867-868/ **2009 EX[DB]** dated 04-11-09 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. MEERUT II
   OPP. SAHEED PARK (NEAR ASHOK KI LAT) DELHI ROAD, MEERUT (UP)
2. Adv. / Consult
   MR.RAVI RAGHWAN
   B-6/10 SAFDARJUNG ENCLAVE, NEW DELHI 110029
3. C.D.R
4. ~~J.C.D.R.~~
5. Bar association, CESTAT, New Delhi
6. Director Publications, Customs, Excise. I.P. Estate, New Delhi
7. M/s Centax Publictions Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi - 3
8. Commercial Laws of India Pvt Ltd. Post Bag No. 1033, No.2(Old No. 36), Vaithyaram Street, T. Nagar,Chennai -17
9. Raghuraman's 44-B, Regal Flat,Shipra Suncity, Indirapuram - 201010,Ghaziabad, DT, U.P.
10. M/s Manupatra Information Solutions Pvt Ltd. Excise & Customs Cases B-37, Sector - 1, Noida - 201301, Gautam Budh Nagar, (UP)
11. M/s. Deeparchie Publications, M-93, Marg. 46, Saket, New Delhi 110017
12. Taxindiaonline.com Pvt.Ltd, B-XI/8183,Vasant Kunj, New Delhi - 110070
13. Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh, New Delhi - 110026
14. Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road,Ahmedabad-15
15. LAWCRUX Advisors Pvt Ltd, LAW House,1-8,Sector - 10, Faridabad 121003 (Haryana)
16. Office Copy
17. 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. 635-636 of 2006 (Ex.Br.)

[Arising out of Order-in-Appeal No. 140-141/CE/MRT II/2005 dated 13.7.05 passed by Commissioner of Central Excise (Appeals), Meerut]

M/s. Tata Chemicals Ltd. — Appellants

Vs.

Commissioner of Central Excise
Meerut II — Respondent

Appearance: Mr. B.L. Narasimhan, Advocate for the Appellants
Mr. S.R. Meena, SDR for the Respondent

CORAM: Hon'ble Mr. M. Veeraiyan, Member (Technical)
Hon'ble Mr. D.N.Panda, Member (Judicial)

Date of Hearing/decision : 3.11.2009

FINAL **ORDER NO. 867 - 868/09-EX**

Per D.N.Panda (for the Bench):

In both the appeals, a short point arose for determination was whether the transit loss of raw materials viz., naptha and natural gasoline (for use in fertiliser) resulting in shortage shall make the appellant liable to duty when such goods were procured availing duty exemption under notification No. 06/2002-CE dated 01.03.02 as amended. Learned Counsel Shri Narasimhan, brings the legal position in respect of the matter in controversy to our notice. In view of the provisions contained in Rule 6 of Central Excise (Removal of Goods at Concessional Rate of duty for manufacture of excisable goods) Rules, 2001, the appellant has no further case, even though they had conceived a case in their favour at the time of filing of appeal. But he submits that there being no deliberate intention to cause subterfuge to Revenue, the penalty in Appeal No. E/636/06 involving a token penalty of Rs.10,000/- does not call for sustenance. Finding that order was passed by learned appellate authority below properly, testing the facts under law relating to removal of goods under duty exemption/concession, both appeals are dismissed. However, so far as the appeal no. 636/06 is concerned penalty of Rs.10,000/- was imposed without bringing questionable elements calling for such imposition. Therefore, such penalty is unsustainable.

2. Accordingly, the order in appeal upholding demand of duty and interest sustains while the appellants gets partial relief in Appeal No. E/636/06 in respect of penalty only to the extent indicated above.

(M. Veeraiyan)
Technical Member

(D.N.Panda)
Judicial Member

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